

Minnesota

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

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Wednesday, February 6, 2019  
10:30 AM

St Croix Room  
Centennial Office Building  
St Paul MN

## **REGULAR SESSION AGENDA**

1. **Approval of Minutes** (January 3, 2019)
2. **Chair's report**
  - a. Meeting schedule
3. **Executive director report**
  - a. Memo - Citizens United v Schneiderman
4. **Advisory Opinion 450**
5. **Legislative proposals**
6. **Enforcement report**
7. **Legal report**
8. **Other business**

## **EXECUTIVE SESSION**

Immediately following regular session

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

.....  
**January 3, 2019  
St Croix Room  
Centennial Office Building**  
.....

**MINUTES**

The meeting was called to order by Chair Leppik.

Members present: Flynn, Haugen, Leppik, Moilanen, Rosen (by telephone), Swanson

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

**MINUTES** (December 5, 2018)

After discussion, the following motion was made:

Member Swanson's motion: To approve the December 5, 2018, minutes as drafted.

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

**CHAIR'S REPORT**

**A. Meeting schedule**

The next Board meeting is scheduled for 10:30 a.m. on Wednesday, February 6, 2019.

**EXECUTIVE DIRECTOR REPORT**

Mr. Sigurdson presented members with a memorandum regarding this matter that is attached to and made a part of these minutes. Mr. Sigurdson told members that reports were due in January for all three programs overseen by the Board. Mr. Sigurdson also said that staff had processed the December public subsidy payments to candidates for the 2018 election. Mr. Sigurdson stated that the Board had received a letter from George Beck on behalf of Minnesota Citizens for Clean Elections, which is attached to and made a part of these minutes. Mr. Sigurdson said that the letter asked the Board to consider a legislative proposal requiring disclosure of donors to non-profit entities when those entities contribute to independent expenditure committees in Minnesota. Mr. Sigurdson and members then discussed the current underlying disclosure requirements for contributors to independent expenditure committees and funds in Minnesota.

## **REVIEW OF FEES AND CIVIL PENALTIES FOR LATE REPORTS**

Mr. Sigurdson presented members with a memorandum regarding this matter that is attached to and made a part of these minutes. Mr. Sigurdson told members that the memorandum was prompted by a member's request to review the late fee and civil penalty statutes for potential legislative changes and by the increasing number of waiver requests being submitted to the Board. Mr. Sigurdson reviewed the current statutory provisions regarding late fees and civil penalties. Mr. Sigurdson also reviewed the applicable Board policies and told members that they had the authority to modify those policies. Mr. Sigurdson specifically discussed the policies that delay the imposition of a civil penalty until the maximum late fee has been accrued, that impose the civil penalty in \$100 increments over a 10-week period, and that delay referral to the attorney general's office until the maximum late fee and civil penalty have been reached. Mr. Sigurdson also reviewed the chart in the memorandum that showed the amount of late fees and civil penalties collected versus the amount waived. Mr. Sigurdson said that at the next meeting, staff would present an analysis of waiver requests by program.

## **LEGISLATIVE PROPOSALS**

Mr. Sigurdson presented members with a memorandum regarding this matter that is attached to and made a part of these minutes. Mr. Sigurdson first reviewed the technical provisions related to the economic interest program. Members suggested that the monetary threshold for reporting honoraria be increased from \$50. Members then discussed the policy provisions related to the economic interest program and expressed concerns about the proposed language for the government contract proposal and the spousal/beneficial interest proposal. Members directed staff to work on alternative language for these proposals to bring to the next meeting.

After the discussion, the following motions were made:

- |                          |  |
|--------------------------|--|
| Member Flynn's motion:   | To go forward with the proposal to establish a two-tiered disclosure system as described on pages 4-5 of the legislative memorandum without paragraph (5) concerning government contracts. |
| Vote on motion:          | A roll call vote was taken. Motion passed (5 ayes, Member Moilanen voted nay).   |
| Member Swanson's motion: | To go forward with the technical proposals for the economic interest program as described on pages 1-4 of the legislative memorandum.  |
| Vote on motion:          | A roll call vote was taken. All members voted in the affirmative.  |

**EXECUTIVE SESSION**

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

**LEGISLATIVE PROPOSALS CONTINUED**

Mr. Sigurdson resumed consideration of this matter by reviewing the technical proposals for the campaign finance program that were related to the affidavit of contributions deadline and the list of allowed multicandidate expenditures.

After discussion, the following motion was made:

Member Swanson's motion: To go forward with the technical proposals for the campaign finance program as described on page 7 of the legislative memorandum.

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

Mr. Sigurdson then reviewed the technical proposal that would eliminate the disclosure requirement for shared expenditures between federal and state committees of the same party.

After discussion, the following motion was made:

Member Flynn's motion: To go forward with the technical proposal for the campaign finance program as described on page 8 of the legislative memorandum.

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

Mr. Sigurdson next discussed a technical proposal that would provide an alternative way for unregistered associations to provide the underlying disclosure required when they contribute more than \$200. This proposal was printed on blue paper. Mr. Sigurdson said that many unregistered associations are committees that are registered in another state or with the Federal Election Commission (FEC). Mr. Sigurdson said that the underlying disclosure documents provided by these associations often are the reports that they file with the other state or the FEC and that these reports can be quite large. Mr. Sigurdson said that the technical amendment would allow these associations to provide a link to the government website that displays their reports instead of providing copies of those paper reports.

After discussion, the following motion was made:

- Member Swanson's motion: To go forward with the technical proposal for the campaign finance program as described in the addendum to the legislative memorandum printed on blue paper.
- Vote on motion: A roll call vote was taken. Motion passed (5 ayes, Rosen abstained.)

Mr. Sigurdson then reviewed the virtual currency policy proposal for the campaign finance program.

After discussion, the following motion was made:

- Member Moilanen's motion: To go forward with the virtual currency policy proposal for the campaign finance program as described on page 9 of the legislative memorandum.
- Vote on motion: A roll call vote was taken. All members voted in the affirmative.

Mr. Sigurdson finally reviewed the policy proposal to amend the definition of expressly advocating to include communications that are the functional equivalent of express advocacy. Mr. Sigurdson reviewed the current statutory definition of expressly advocating and the types of communications that were not covered by that definition. Mr. Sigurdson then reviewed the three language options presented in the memorandum. Members discussed several issues related to the proposal and asked staff to continue working on draft language for the next meeting.

## **ENFORCEMENT REPORT**

### **A. Discussion item**

#### **1. Balance adjustment request – Clay County DFL**

Mr. Olson told members that the Clay County DFL had reported an ending cash balance in 2016 of \$446.78, but that its bank statements had reflected a balance at that time of \$1,009.64, a difference of \$562.86. It was not clear when the balance discrepancy had started or what had caused it.

Mr. Olson stated that in approximately April 2016, Anna Darby had replaced Roxanne Bjerk as the Clay County DFL's treasurer according to a registration amendment form filed with the Board. However, it appeared that Ms. Bjerk had continued filing the party unit's reports through the 2016 year-end report. Ms. Darby died in September 2017 and the chair, Julian Dahlquist, filed the party unit's 2017 year-end report. Mr. Olson said that Ms. Bjerk reportedly had provided Ms. Darby with electronic financial records. Those files, however, were never recovered after Ms. Darby's death. The party unit switched banks in late 2016, and its former bank refused to provide any information even to those whose names were listed on the account.

Mr. Olson said that Paul Harris became the treasurer in early 2018 and shortly thereafter contacted staff to report that he was unable to reconcile the balances in previously filed reports with the party unit's bank statements. Mr. Olson said that Mr. Harris had contacted Ms. Bjerk and Mr. Dahlquist, but that the only information he had learned that could help explain the ending cash balance discrepancy from 2016 was that it was not Ms. Bjerk's practice to try to reconcile her figures with the party unit's bank account balance. The party unit's 2017 year-end report contained many errors, but Mr. Harris filed an amended report correcting those errors. Mr. Olson said that all that remained unresolved was the balance discrepancy carried over from 2016. Mr. Olson stated that Mr. Harris thereby was asking the Board to adjust the party unit's 2016 ending cash balance from \$446.78 to \$1,009.64.

After discussion, the following motion was made:

Member Swanson's motion: To approve the balance adjustment requested by the Clay County DFL.

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

**B. Waiver requests**

<u>Name of Candidate or Committee</u>	<u>Late Fee &amp; Civil Penalty Amount</u>	<u>Reason for Fine</u>	<u>Factors for waiver</u>	<u>Board Member's Motion</u>	<u>Motion</u>	<u>Vote on Motion</u>
Richard Reeves	\$100 LFF \$1,000 CP	2017 EIS	Official retired from DEED in April 2017. DEED did not forward any notices to official and did not supply any contact information to Board. Official promptly filed EIS after notice was sent to his home address.	Member Swanson	To waive the late filing fee and civil penalty	A roll call vote was taken. All members voted in the affirmative.
St Louis County DFL (St Louis-06) (20893)	\$100 LFF	2018 pre-general	Treasurer's computer stopped working 9/28. After consulting local repair shop, she shipped computer to Florida for repair. She expected to receive it back in time to file reports by deadline and was diligent in tracking its return. However, it did not arrive until 10/31, at which point she filed reports for each party unit the same day.	Member Swanson	To waive the late filing fees for each party unit	A roll call vote was taken. All members voted in the affirmative.
6 <sup>th</sup> Sen District DFL	\$100 LFF					
East Central MN Area Labor Council COPE (30626)	\$1,000 LFF	24-hour notice	\$1,601 was allocated from supporting association to political fund 8/1/2018. Treasurer didn't realize amount and timing triggered 24-hour notice requirement until September report was filed 9/24/2018. None of the money was spent until well after primary election. Board typically reduces 24-hour notice late fees for first-time violations to \$250.	Member Flynn	To reduce the late fee to \$250	A roll call vote was taken. All members voted in the affirmative.

Sibley County RPM (20310)	\$750 LFF	2018 pre-general	Treasurer previously received assistance from coworker in faxing paper report and intended to do so again. She wasn't in office on due date, so treasurer instead took pictures of report with phone and attempted to email them to Board. He didn't realize email failed (apparently due to file size of attached pictures) until he received letter from us Nov. 16.	Member Moilanen	To reduce the late filing fee to \$150	A roll call vote was taken. Motion passed (5 ayes, Member Haugen voted nay).
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**C. Informational Items**

**1. Payment of late filing fee for July 30, 2018, report of receipts and expenditures**

4<sup>TH</sup> Senate District DFL, \$200  
 MAIV PAC, \$200  
 Michael Ford, \$50  
 Minneapolis Downtown Council PAC, \$50

**2. Payment of civil penalty for July 30, 2018, report of receipts and expenditures**

MAIV PAC, \$50

**3. Payment for civil penalty for accepting a corporation contribution**

66<sup>th</sup> Senate District DFL, \$25

**4. Payment for late filing fee for 6/15/17 lobbyist disbursement report**

Mark Anfinson, \$325

**5. Payment for late filing fee for October 29, 2018, report of receipts and expenditures**

Democratic Midterm Victory Fund, \$150  
 Lyon County DFL, \$50

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

Messerli & Kramer PAC, \$250  
 North Central States Regional Council Carpenters PAC \$1000

**7. Payment for late filing fee for September 25, 2018, report of receipts and expenditures**

MN Muskie & Pike Alliance Legislative Fund, \$50

**8. Payment for late filing fee for 2016 pre-primary report of receipts and expenditures**

Edwin Hahn, \$113.72

**LEGAL COUNSEL'S REPORT**

Mr. Hartshorn presented members with a legal report that is attached to and made a part of these minutes. Mr. Hartshorn directed members to the new descriptions in the case status column.

**OTHER BUSINESS**

There was no other business to report.

**EXECUTIVE SESSION**

The chair recessed the regular session of the meeting and resumed the executive session. Upon recess of the executive session, the regular session of the meeting was called back to order and the chair had the following to report into regular session:

Findings, conclusions, and order in the matter of the Land Stewardship Action Fund

Findings, conclusions, and order in the matter of the complaint of Michael Smith regarding the Perske (Joe) for Senate Committee

Findings, conclusions, and order in the matter of the staff review of the House Republican Campaign Committee (HRCC)

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

Respectfully submitted,

Jeff Sigurdson  
Executive Director

Attachments:

Executive director's report

Letter from Minnesota Citizens for Clean Elections

Memorandum regarding review of fees and penalties for late reports

Memorandum regarding legislative proposals

Findings, conclusions, and order in the matter of the Land Stewardship Action Fund

Findings, conclusions, and order in the matter of the complaint of Michael Smith regarding the Perske (Joe) for Senate Committee

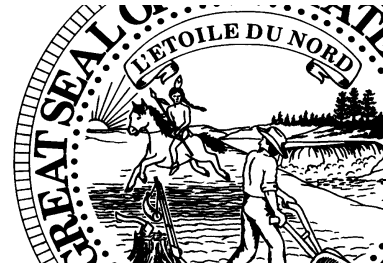
Findings, conclusions, and order in the matter of the staff review of the House Republican Campaign Committee (HRCC)



# Campaign Finance and Public Disclosure Board

190 Centennial Bldg, 658 Cedar St, St Paul, MN 55155

[www.cfboard.state.mn.us](http://www.cfboard.state.mn.us)



## **Board Meeting Dates for Calendar Year 2019**

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

### **2019**

Wednesday, March 6

Wednesday, April 3

Wednesday, May 1

Wednesday, June 5

Wednesday, July 3

Wednesday, August 7

Wednesday, September 4

Wednesday, October 2

Wednesday, November 6

Wednesday, December 4



# MINNESOTA CAMPAIGN FINANCE BOARD

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**Date:** January 29, 2019

**To:** Board Members

**From:** Jeff Sigurdson, Executive Director

**Telephone:** 651-539-1189

**Re:** Executive Director's Report – Board Operations January 2019

## **Year-end Reports**

All three major program areas; campaign finance, lobbying, and economic interest statements have year-end filing requirements in January. A brief update for each program follows:

**Lobbying Program.** The lobbyist disbursement report covering the period of June 1 through December 31, 2018, was due on January 15, 2019. Only 17 of the 2,117 reports due were not filed by the deadline. The use of the online reporting system remains high with 94% of reports filed electronically.

**Campaign Finance Program.** The year-end report of receipts and expenditures for 2018 is due on January 31, 2019. Staff will be sending a series of e-mail and telephone call reminders to non-filers prior to the deadline.

**Economic Interest Statement.** The annual certification by public officials for 2018 was due on January 28, 2019. As of the date of this memo, over 2,700 of the 2,940 annual certifications (92%) have been filed.

## **Presentations to the Legislature**

With the new year staff has again started to schedule campaign finance compliance training and software training. Five committees attended the January software training class. Attendance at training classes during a non-election year is usually somewhat low, but important as committees bring in new treasurers.

I presented an overview of Board functions to the House State Government Finance Division (Rep. Michael Nelson, Chair) on January 16<sup>th</sup>, and presented a similar presentation to the Senate State Government Finance and Policy and Elections Committee (Sen. Mary Kiffmeyer, Chair) on January 29<sup>th</sup>. The presentations focus on a review of Board functions and fiscal requests.

## **Public Subsidy Payment – Special Election Senate District 11**

The Board issued public subsidy payments to the qualified candidates in the special election for Senate District 11 on January 25, 2019. The payments were \$8,787.36 to Stu Lourey (DFL) and \$6,733.70 to Jason Rarick (RPM).

## **Memo Regarding Citizens United v Schneiderman (New York)**

On occasion I ask Andrew Olson to develop a memo reviewing a court decision, legislation, or other issue in another state, or at the national level, that is related to the Board's areas of responsibility. The attached memo reviews a recent court case in the state of New York on the disclosure of contributors to 501(c)(3) and 501(c)(4) organizations.

### Attachments

Memo - Citizens United v Schneiderman



# MINNESOTA CAMPAIGN FINANCE BOARD

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**Date:** January 30, 2019

**To:** Board members

**From:** Andrew Olson, Legal/Management Analyst

**Telephone:** 651-539-1190

**Re:** Citizens United v. Schneiderman (New York) – Disclosure of Donors by 501(c)(4)s

New York requires a charitable organization that solicits contributions within New York to register with the state's attorney general and to file an annual financial report. That report must be accompanied by a copy of the organization's complete IRS form 990 (or its equivalent) including all schedules. Schedule B has generally required disclosure of the name and address of any individual donating \$5,000 or more to the organization during its fiscal year, but that information cannot be made public by the IRS unless the recipient organization is a private foundation. Starting with returns for tax years ending in 2019, the IRS will no longer require an exempt organization, other than a 501(c)(3), to disclose the names and addresses of its contributors.<sup>1</sup>

New York defines charitable organizations broadly to include both 501(c)(3)s and 501(c)(4)s (among others). Both Citizens United Foundation, a 501(c)(3), and Citizens United, a 501(c)(4), are registered in New York despite being domiciled in Virginia as they seek contributions from New York residents. They have long submitted annual reports to New York's attorney general that contain the first page of their schedule B but not subsequent pages disclosing the names and addresses of individual contributors.

In 2013, New York's attorney general announced that the state would require greater disclosure of donors to charitable organizations and would publicize itemized schedules of contributions to and expenses incurred by organizations that spend \$10,000 or more on election campaigns or electioneering communications seeking to influence state and local races.<sup>2</sup> The Attorney General's office notified Citizens United and the Citizens United Foundation that their reports were deficient starting that year, and has continued to do so each subsequent year, without taking any action to impose fines or revoke the organizations' privileges to solicit donations in New York.

The organizations filed suit in 2014, challenging any required disclosure of their individual donors on multiple grounds, including the argument that such a requirement would have a

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<sup>1</sup> See [Revenue Procedure 2018-38](#).

<sup>2</sup> See A.G. Schneiderman Adopts New Disclosure Requirements For Nonprofits That Engage In Electioneering

chilling effect on the political expression of their donors. The district court dismissed that claim, finding, as the U.S. Supreme Court did in *Citizens United v. FEC* and *Doe v. Reed*, that the plaintiffs failed to provide factual support for the assertion that their donors would suffer reprisals due to the challenged disclosure requirements.<sup>3</sup>

On appeal, the Second Circuit affirmed the dismissal of the plaintiff's challenge. However, that holding was largely dependent upon the fact that New York's attorney general never intended to publicize the names of donors to either plaintiff, nor to any other 501(c) organization.<sup>4</sup> The court stated that:

We would be dealing with a more difficult question if these disclosures went beyond the officials in the Attorney General's office charged with enforcing New York's charity regulations. Certainly if that office were to publicize donor lists, it would raise the stakes . . . . Publication of member or donor lists is not per se impermissible under the First Amendment, of course. It may even be defensible on the grounds that it promotes the transparency necessary for full and open debate. But when information about one's donation to a group is available to the public, it is more plausible that people who are opposed to the mission of that group might make a donor suffer for having given to it.<sup>5</sup>

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<sup>3</sup> *Citizens United v. Schneiderman*, [203 F. Supp. 3d 397, 408](#) (S.D.N.Y. 2016).

<sup>4</sup> A similar lawsuit was filed challenging a California regulation requiring nonprofits to file unredacted Form 990 schedule Bs, *Ctr. for Competitive Politics v. Harris*, 296 F. Supp. 3d 1219, 1221 (E.D. Cal. 2017). That case was dismissed in October 2017 and is currently on appeal to the Ninth Circuit. In that case the challenged regulation specifically prohibited the public disclosure of the information contained within schedule B.

<sup>5</sup> *Citizens United v. Schneiderman*, [882 F.3d 374, 384](#) (2d Cir. 2018)



# MINNESOTA

## CAMPAIGN FINANCE BOARD

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**Date:** January 30, 2019

**To:** Board Members

**From:** Jeff Sigurdson, Executive Director

**Telephone:** 651-539-1189

**Re:** Advisory opinion 450 – Use of principal campaign committee funds to support the activities of a legislative caucus.

The request for this advisory opinion was received from Representative Drazkowski on January 22, 2019. Representative Drazkowski has submitted the request on behalf of himself and the other members of the New House Republican Caucus (NHRC). Representative Drazkowski has signed a waiver making the request public.

The NHRC is a legislative caucus recognized by the Speaker of the House. Similar to the DFL and Republican legislative caucuses in the House, the members of NHRC have been assigned office space, committee assignments, seating on the House floor, and the authority to hire staff based on their caucus membership.

The advisory opinion request states that the NHRC has start up and initial operating costs that will not be funded by the legislature. The request asks a series of questions on whether the members of the NHRC may use principal campaign committee funds to pay for specified costs, and if so, how the expenditures should be categorized and reported.

The draft advisory opinion concludes that, with restrictions, the specified costs may be paid for with principal campaign committee funds, and reported as non-campaign disbursements. The reasoning behind this conclusion is more fully explained in the draft.

Attachments:

Advisory opinion request

Draft advisory opinion

# Steve Drazkowski

State Representative

District 21B  
Mazeppa



# Minnesota House of Representatives

## Committees:

Property and Local Tax Division  
Rules and Legislative Administration  
Ways and Means

January 22, 2019

Jeff Sigurdson  
Executive Director  
Minnesota Campaign Finance and Public Disclosure Board  
190 Centennial Office Building  
658 Cedar Street  
St. Paul, MN 55155-1603

Mr. Sigurdson:

I am writing to ask the Board to issue an opinion on a question that I believe is one of first impression.

I am a member of the New House Republican Caucus (NHRC), a group that has been recognized by the Speaker and the full House with the allocation of office space, the assignment of Members to House committees, and the authorization to hire staff.

Although individual Legislators in both bodies have separated themselves from formal caucuses in past years, we believe that NHRC represents the first time that multiple Members have joined to create a minority caucus in the House.

We are seeking an opinion from the Board on whether individual Members of NHRC may make noncampaign disbursements from their individual campaign accounts to cover the organizational costs of forming and supporting the NHRC.

Pursuant to Chapter 10A.01 (9) of the Minnesota Statutes, a campaign "expenditure does not include . . . noncampaign disbursements as defined in subdivision 26."

More particularly, Subdivision 26(9) defines "noncampaign disbursement" to include "payment of expenses incurred by elected or appointed leaders of a legislative caucus in carrying out their leadership responsibilities."

As joint partners in the newly-formed NHRC, our Members seek guidance from the Board to determine whether we may make contributions to NHRC from our individual campaign accounts to fund the start-up costs and initial support of our Caucus.

Address: 327 State Office Building St. Paul, MN 55155  
Email: [rep.steve.drazkowski@house.mn](mailto:rep.steve.drazkowski@house.mn)

Phone: (651) 296-2273



Such expenses would include:

- Office materials such as stationery, signage, and supplies:
- Communications costs, such as a website, social media accounts, and telephone expenses to communicate NGRC's legislative message to constituents and supporters of NHRC's legislative supporters; and,
- Other start-up costs such as securing legal and communications counsel in crafting the creation and launch of the new caucus.

The guidance of the board on this question will be greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steve Drazkowski', written in a cursive style.

Representative Steve Drazkowski, District 21B

Leader

New House Republican Caucus

Minnesota House of Representatives



**State of Minnesota  
Campaign Finance and Public Disclosure Board  
Suite 190, Centennial Building. 658 Cedar Street. St. Paul, MN 55155-1603**

**THIS ADVISORY OPINION IS PUBLIC DATA  
pursuant to a consent for release of information  
provided by the requester**

Issued to: Representative Steve Drazkowski  
New House Republican Caucus  
327 State Office Building  
St. Paul, MN 55155

**ADVISORY OPINION 450**

**SUMMARY**

A principal campaign committee may pay for certain expenses related to the operation of a legislative caucus that qualify as non-campaign disbursements under Chapter 10A.

**FACTS**

As a member of the New House Republican Caucus (NHRC) you request an advisory opinion from the Campaign Finance and Public Disclosure Board based on the following facts that were provided in the letter requesting the advisory opinion and in discussions with Board staff.

1. You are a member of the Minnesota House of Representatives, representing District 21B.
2. You and three other member of the House of Representatives formed the NHRC at the beginning of the 2019 legislative session. The NHRC has been recognized as a legislative caucus by the Speaker of the House. NHRC members have been assigned office space, seating in the House chambers and given the authorization to hire staff and committee assignments based on their membership in the caucus.
3. You are the leader of the NHRC.
4. The Republican Party of Minnesota is the political affiliation of the members of the NHRC.
5. The NHRC will incur certain costs for startup and initial support of the caucus. Not all of these costs will be paid for by the legislature. You seek guidance from the Board on the use of principal campaign committee funds to pay for the costs specified in the advisory opinion request.

6. In particular you ask for guidance on whether the use of principal campaign committee funds to pay for NHRC expenses may be classified as a noncampaign disbursement.

## INTRODUCTION

The term “legislative caucus” is not defined in Chapter 10A, and does not appear to be defined in any Minnesota statute. The term is used most often to refer to the organization of members of the legislature, which typically is organized along political party lines. The legislative caucuses elect or appoint members to leadership positions within the caucus, and hire staff to support policy development, provide public education on the issues supported by the caucus, and ultimately support the enactment of the legislative goals of the caucus. The legislature pays caucus staff salaries and extends other administrative support to the caucuses. The legislative caucuses that develop policy and legislation are not registered or regulated by the Board because they are funded with tax dollars, and they are not organized to influence the nomination or election of candidates.

However, prior Board advisory opinions have also used the term “legislative caucus” as a shorthand reference for a political party unit organized within a body of the legislature. In retrospect, the Board’s use of this term was confusing, and requires an explanation. A major or minor political party registered with the Board must at a minimum have a state central committee. A political party may also organize and register additional political party units that in aggregate represent the political party.<sup>1</sup> A major or minor political party may recognize and authorize the registration of a single party unit for each political or geographic area recognized in Chapter 10A.<sup>2</sup> Critical to this discussion, a political party may also recognize and authorize the registration of one party unit organized within each body of the legislature. Unlike legislative caucuses, the political party units organized for the House and Senate exist to influence the nomination and election of candidates.

Going forward, the Board will use the term “legislative party unit” when discussing a political party unit organized in a legislative body. Prior advisory opinions that use the term “legislative caucus” should be read with the understanding that the reference means a political party unit registered under Chapter 10A.

In this advisory opinion, the Board is asked to provide guidance to members of a newly recognized legislative caucus. The legislature has extended some support to the NHRC, but the caucus has start up and initial operating costs that are not currently funded. The NHRC members wish to develop and promote the legislative policy positions of the caucus and are willing to pay for the expenditures detailed in the advisory opinion request with their principal campaign committee funds if those payments are allowed by Chapter 10A.

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<sup>1</sup> Minnesota Statutes section 10A.01, subdivision 29, defines political party as follows: “Political party’ means a major political party or a minor political party. A political party is the aggregate of all its political party units in this state.”

<sup>2</sup> Minnesota Statutes section 10A.01, subdivision 30, defines political party unit or party unit as follows: “Political party unit’ or ‘party unit’ means the state committee or the party organization within a house of the legislature, congressional district, county, legislative district, municipality, or precinct.”

## **ISSUE ONE**

May members of the NHRC use principal campaign committee funds to pay for signage identifying caucus offices, caucus stationary, and other basic office supplies for the caucus?

### **OPINION ONE**

Yes. In general, money raised for political purposes must be used for expenses related to the conduct of an election campaign or for a noncampaign disbursement listed in Chapter 10A. Minn. Stat. § 211B.12. As discussed above, the NHRC's expenses are not related to the conduct of an election campaign. Consequently, the members of the NHRC may use their principal campaign committee funds for the NHRC expenses only if those expenses qualify as a noncampaign disbursement.

Minnesota Statutes section 10A.01, subdivision 26, provides a list of noncampaign disbursements that may be paid for with principal campaign committee funds. In particular, this statute provides that incumbent legislators may use principal campaign committee funds for the following expense:

(10) payment by a principal campaign committee of the candidate's expenses for serving in public office, other than for personal uses.

The category of costs related to serving in public office includes those costs that would not occur without membership in the legislature and that are ordinary and reasonable expenses incurred in order to better perform the tasks of a legislator.<sup>3</sup>

Signage for a member's office identifying the member as part of the NHRC, stationery printed with the legislator's NHRC membership, and basic office supplies are all expenses that NHRC members would not have incurred if they were not members of the legislature. These expenses also are ordinary and reasonable expenses incurred to help the member better perform the tasks of a legislator. These expenses therefore may be paid with principal campaign committee funds as a cost of serving in office.

## **ISSUE TWO**

May members of the NHRC use principal campaign committee funds to pay for an NHRC website, social media accounts, telephone expenses, and other communication costs related to supplying NHRC's legislative message to constituents and supporters?

### **OPINION TWO**

Yes, with restrictions. The specified expenses of establishing and operating a website and other communications that promote the legislative positions of the NHRC are not the usual operating costs for a legislator. Consequently, they cannot be paid for as costs of serving in office. In addition, the communications will reach, and are intended to reach, individuals who do not reside in the legislative districts of NHRC members. The broad audience for the

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<sup>3</sup> See Advisory Opinions 255 and 314.

communications precludes categorizing their costs as services for a constituent under Minnesota Statutes section 10A.01, subdivision 29, paragraph (6).

However, Minnesota Statutes section 10A.01, subdivision 26, paragraph (9), provides that principal campaign committee funds may be used for the following expenses:

(9) payment of expenses incurred by elected or appointed leaders of a legislative caucus in carrying out their leadership responsibilities.

As stated earlier, the term “legislative caucus” is not defined in Chapter 10A. However, there is no reason to believe that this noncampaign disbursement category is not available to the leadership of the NHRC as a legislative caucus recognized by the Speaker of the House. Among other duties, legislative caucus leadership is responsible for providing public education on issues important to the caucus and promoting the legislative positions of the caucus with the ultimate goal of enacting those positions into law. A website, social media posts, and other related communications all are methods that the NHRC leadership can use to accomplish those responsibilities. The NHRC leadership therefore may use principal campaign committee funds to pay expenses that they incur for a website, social media, and other related communications used to fulfill their responsibility to promote the legislative agenda of the NHRC.

The NHRC will need to monitor carefully its communications to ensure that they relate only to the legislative positions and message of the caucus.

### **ISSUE THREE**

May members of the NHRC use principal campaign committee funds to pay for other start-up costs, such as securing legal counsel on the creation and operation of the new caucus?

### **OPINION THREE**

Yes, with restrictions. Legal counsel for the legislative caucus is not a usual expenditure for a legislator and therefore could not be paid for as a cost of serving in office. However, paying for legal advice to successfully launch and operate the NHRC may be seen as a responsibility of caucus leadership. Such costs therefore may be paid for with the principal campaign committee funds of NRHC members in leadership positions.

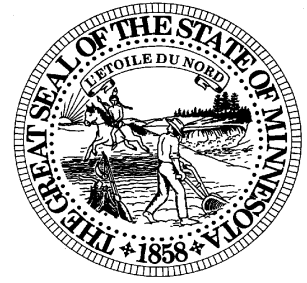
Issued February 6, 2019

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Margret Leppik, Chair  
Campaign Finance and Public Disclosure Board

Minnesota

# *Campaign Finance and Public Disclosure Board*



**Date:** January 30, 2019

**To:** Board Members

**From:** Jeff Sigurdson, Executive Director

**Telephone:** 651-539-1189

**Re:** **Possible Legislative Recommendations**

At the January 2019 meeting Board Members discussed and adopted a number of legislative recommendations for the campaign finance and economic interest statement programs. However, the Board also expressed concerns on proposed language for the economic interest statement related to the disclosure of government contracts, and the spousal/beneficial interest proposal. The Board also expressed concerns about the language used in the proposal to modify the definition of expressly advocating for or against a candidate. The Board directed staff to work on alternative language for these proposals for consideration at the February meeting.

After the January meeting I forwarded Board members a working draft of language developed for the economic interest program, and provided a memo developed by Andrew Olson on the recommendation regarding functional equivalent of express advocacy. That memo is again provided for your reference.

The comments I received from Board members on the draft language for the economic interest program were extensive. Some of the comments pointed out flaws that if not addressed would make the recommendations extremely difficult to explain or administer. I appreciate the thought members gave to the issue, but because the feedback was extensive staff is still working on a revised draft of the language for beneficial interest and governmental contracts. The revised version will be sent to Board members, and posted for the public, prior to the February meeting.

In reaction to the memo on the functional equivalent of express advocacy, several members asked if staff could provide examples of advertisements that would require disclosure to the Board under the proposed statutory change. In response, I will be presenting print and video advertisements at the meeting that should provide some context for the Board's discussion of the proposed language.

I have also attached Board findings regarding certain mailing made by the Minnesota Family Council in 2014. The findings include exhibits of the mailings that were subject to investigation. I encourage members to read the findings carefully, as they represent the best example of the Board's inability to require disclosure for communications that have no apparent purpose other than to advocate for the election of a candidate.

Also attached for review is CFR §100.22, the current federal statute defining expressly advocating.

## Attachments

Memo on functional equivalent of express advocacy  
Findings regarding the Minnesota Family Council  
CFR §100.22

**Date:** January 18, 2019

**To:** Jeff Sigurdson, Executive Director

**From:** Andrew Olson, Legal/Management Analyst

**Telephone:** 651-539-1190

**Re:** Legislative Recommendations Regarding the Substantial Equivalent of Express Advocacy

## **Genesis of Federal Restrictions on Independent Expenditures**

The Federal Election Campaign Act (FECA) Amendments of 1974 placed a dollar limitation on the amount a person could spend on expenditures “relative to a clearly identified candidate.” Such expenditures came to be labeled independent expenditures. The phrase “clearly identified” included the presence of the candidate’s name or photograph or any other unambiguous reference to the identity of the candidate.

## **The Birth of Express Advocacy and Magic Words**

In *Buckley v. Valeo*, the U.S. Supreme Court hypothesized that a dollar limit on independent expenditures would, in order to survive a challenge on vagueness grounds, need to be limited to expenditures for communications containing “express words of advocacy of election or defeat, such as ‘vote for,’ ‘elect,’ ‘support,’ ‘cast your ballot for,’ ‘Smith for Congress,’ ‘vote against,’ ‘defeat,’ ‘reject.’”<sup>1</sup> That construction of the statute ultimately was not relevant to the Court’s decision, however, as it struck down the expenditure limit in question in its entirety on the basis that placing a ceiling on independent expenditures did not serve the interest of preventing the reality or perception of corruption and could not be justified as an attempt to equalize the electoral playing field. Nonetheless, the words articulated in footnote 52 of the decision came to be known as the magic words, which many have argued must be present in order for a communication to be express advocacy and thereby constitute an independent expenditure.<sup>2</sup> The phrases “independent expenditure” and “expressly advocating” were included within amendments to the FECA in 1976.

## **Express Advocacy Absent the Magic Words**

To the best of my knowledge, only communications in which one of the magic words was present were construed to be independent expenditures until *Fed. Election Comm’n v. Furgatch*, a case decided by the Ninth Circuit Court of Appeals in 1987.<sup>3</sup> In that case, the court forcefully argued that requiring the presence of the magic words in order for express advocacy to exist would come “at the expense of eviscerating the Federal Election Campaign Act.” The court “conclude[d] that speech need not include any of the words listed in *Buckley* to be express

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<sup>1</sup> *Buckley v. Valeo*, [424 U.S. 1, 44](#) (1976).

<sup>2</sup> This argument was expressly rejected by the Court in 2003 in *McConnell v. Fed. Election Comm’n*, [540 U.S. 93, 103](#), (2003).

<sup>3</sup> *Fed. Election Comm’n v. Furgatch*, [807 F.2d 857](#) (9th Cir. 1987)

advocacy under the Act, but it must, when read as a whole, and with limited reference to external events, be susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate.” The reference to external events is explained in the court’s opinion as the appropriate and often necessary consideration of the context in which the speech occurs, such as the proximity to an election and whether the speech could rationally be considered to ask listeners to take any action other than voting for or not voting for a specific candidate.

### **Genesis of the Functional Equivalent of Express Advocacy**

References to the “functional equivalent” of express advocacy likely began with a federal district court case in 1999 that cited *Furgatch* in support of the conclusion that express advocacy is not limited to communications containing *Buckley’s* magic words.<sup>4</sup> The U.S. Supreme Court discussed “the functional equivalent of express advocacy” and *Buckley’s* magic words in a 2003 case dealing with electioneering communications.<sup>5</sup> Independent expenditures are similar and the definitions often overlap, but electioneering communications may call for some action that does not involve voting, may or may not contain any of the magic words, and must occur shortly before an election. Because electioneering communications may include pure issue advocacy, limits on those communications are treated more critically by courts than restrictions on independent expenditures, which have typically been defined to only include express advocacy. In *McConnell v. Fed. Election Comm’n*, the Court stated that:

[t]he concept of express advocacy and the concomitant class of magic words were born of an effort to avoid constitutional infirmities. We have long ‘rigidly adhered’ to the tenet ‘never to formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied,’ for ‘[t]he nature of judicial review constrains us to consider the case that is actually before us.’ Consistent with that principle, our decisions in *Buckley* and *MCFL* were specific to the statutory language before us; they in no way drew a constitutional boundary that forever fixed the permissible scope of provisions regulating campaign-related speech.

Nor are we persuaded, independent of our precedents, that the First Amendment erects a rigid barrier between express advocacy and so-called issue advocacy. That notion cannot be squared with our longstanding recognition that the presence or absence of magic words cannot meaningfully distinguish electioneering speech from a true issue ad. Indeed, the unmistakable lesson from the record in this litigation, as all three judges on the District Court agreed, is that *Buckley’s* magic-words requirement is functionally meaningless. Not only can advertisers easily evade the line by eschewing the use of magic words, but they would seldom choose to use such words even if permitted. And although the resulting advertisements do not urge the viewer to vote for or against a candidate in so many words, they are no less clearly intended to influence the

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<sup>4</sup> *Fed. Election Comm’n v. Freedom’s Heritage Forum*, No. CIV.A.3:98CV-549-S, [1999 WL 33756662, at \\*4](#) (W.D. Ky. Sept. 29, 1999).

<sup>5</sup> *McConnell v. Fed. Election Comm’n*, at 103.

election. *Buckley's* express advocacy line, in short, has not aided the legislative effort to combat real or apparent corruption, and Congress enacted BCRA to correct the flaws it found in the existing system.<sup>6</sup>

### **The Test for Functional Equivalence Established in *WRTL II***

The U.S. Supreme Court considered the issue again in 2007 when deciding *Fed. Election Comm'n v. Wisconsin Right To Life, Inc. (WRTL II)*.<sup>7</sup> The case involved an as-applied challenge to a statute that prohibited business corporations, labor unions, and any group that accepted contributions from business corporations or labor unions from using general treasury funds to pay for electioneering communications. The plaintiff was a 501(c)(4) that ran radio ads stating:

A group of Senators is using the filibuster delay tactic to block federal judicial nominees from a simple 'yes' or 'no' vote. So qualified candidates don't get a chance to serve. It's politics at work, causing gridlock and backing up some of our courts to a state of emergency. Contact Senators Feingold and Kohl and tell them to oppose the filibuster.<sup>8</sup>

The Court found the statute to be unconstitutional as applied to that ad on First Amendment grounds. In doing so, the court established a test that has formed the basis of subsequent case law regarding what is an independent expenditure, the FEC's definition of "expressly advocating,"<sup>9</sup> and the statutes and regulations of several states regarding independent expenditures.<sup>10</sup> The Court's test holds that "an ad is the functional equivalent of express advocacy only if the ad is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate."<sup>11</sup> The Court cautioned that in applying the test, regulators must not look to the speaker's intent.

The test to distinguish constitutionally protected political speech from speech that BCRA may proscribe should provide a safe harbor for those who wish to exercise First Amendment rights. The test should also 'reflec[t] our profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open.' A test turning on the intent of the speaker does not remotely fit the bill.

Far from serving the values the First Amendment is meant to protect, an intent-based test would chill core political speech by opening the door to a trial on every ad within the terms of § 203, on the theory that the speaker actually intended to affect an election, no matter how compelling the indications that the ad concerned a pending legislative or policy issue. No reasonable speaker would choose to run an ad covered by BCRA if its only defense to a criminal

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<sup>6</sup> *McConnell* at 192-94 (internal citations and quotation marks omitted).

<sup>7</sup> *Fed. Election Comm'n v. Wisconsin Right To Life, Inc.*, [551 U.S. 449](#) (2007).

<sup>8</sup> *WRTL II*, at 458-59.

<sup>9</sup> [11 CFR § 100.22](#).

<sup>10</sup> See, e.g., [S.D. Codified Laws § 12-27-1 \(9\)](#); [W. Va. Code Ann. § 3-8-1a \(13\)](#); [Code Me. R. tit. 94-270 Ch. 1, § 10 \(2\) \(B\)](#).

<sup>11</sup> *WRTL II*, at 469-70.



prosecution would be that its motives were pure. An intent-based standard 'blankets with uncertainty whatever may be said,' and 'offers no security for free discussion.'<sup>12</sup>

It should be noted that the Court in *McConnell* was applying "closely drawn" scrutiny, which is essentially the same as exacting or intermediate scrutiny, concluding that the ban on the use of corporate or union general treasury funds to pay for independent expenditures was not an outright prohibition because "[t]he ability to form and administer separate segregated funds . . . has provided corporations and unions with a constitutionally sufficient opportunity to engage in express advocacy."<sup>13</sup> The Court in *WRTL II*, however, applied strict scrutiny, perhaps because the vast majority of contributions received by the plaintiff were from business corporations, thus the funds could not be funneled (at that time) into a PAC and therefore, as applied to the plaintiff, the challenged statute functioned as an outright prohibition. A statute merely requiring disclosure of those underwriting independent expenditures as opposed to prohibiting corporations or unions from engaging in such expenditures would most likely be met with exacting or intermediate scrutiny, as opposed to strict scrutiny.<sup>14</sup>

### **Impact of *Citizens United* on the Test for Functional Equivalence**

In *Citizens United v. Fed. Election Comm'n*, the Court used the test adopted in *WRTL II* in finding that the plaintiff's film constituted express advocacy. The Court went so far as to "reject Citizens United's contention that the disclosure requirements must be limited to speech that is the functional equivalent of express advocacy."<sup>15</sup> The Court noted that because disclosure requirements are a less restrictive means of regulating speech, they need not be limited to express advocacy, despite *WRTL II*, which limited an outright ban on the use of general treasury funds by corporations and unions to express advocacy or its functional equivalent.

The Court went on to discuss the electorate's informational interest. *Buckley* described that interest as the desire for "information as to where political campaign money comes from and how it is spent by the candidate in order to aid the voters in evaluating those who seek federal office."<sup>16</sup> *McConnell* explicitly stated that the electorate's informational interest applies to independent expenditures as well as spending by candidates.<sup>17</sup> The Court in *Citizens United* went even further in discussing a disclosure requirement applicable to the film produced by the plaintiff, stating that:

[e]ven if the ads only pertain to a commercial transaction, the public has an interest in knowing who is speaking about a candidate shortly before an election. Because the informational interest alone is sufficient to justify application of §

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<sup>12</sup> *WRTL II*, at 467-68 (internal citations and quotation marks omitted).

<sup>13</sup> *McConnell* at 203. This option is sometimes referenced as the MCFL exception, named after *Fed. Election Comm'n v. Massachusetts Citizens for Life, Inc.*, [479 U.S. 238](#) (1986).

<sup>14</sup> See, e.g., *Doe v. Reed*, [561 U.S. 186, 196](#) (2010); *Citizens United v. Fed. Election Comm'n*, [558 U.S. 310, 366-67](#) (2010).

<sup>15</sup> *Citizens United*, at 369.

<sup>16</sup> *Buckley*, at 66-67.

<sup>17</sup> *McConnell*, at 200.

201 to these ads, it is not necessary to consider the Government's other asserted interests.<sup>18</sup>

The Court in *Citizens United* invalidated, on its face, a prohibition on political speech by corporations and unions. In doing so, it decried the FEC's adoption of a regulation that enumerated multiple factors the FEC would consider in determining whether an electioneering communication constituted express advocacy. The Court stated that the regulation functioned as a prior restraint on speech because, "given the complexity of the regulations and the deference courts show to administrative determinations, a speaker who wants to avoid threats of criminal liability and the heavy costs of defending against FEC enforcement must ask a governmental agency for prior permission to speak."<sup>19</sup> However, that language was used in describing a prohibition on speech, subject to strict scrutiny, not a disclosure requirement, subject to exacting or intermediate scrutiny. Similar language was not used by the majority when discussing the disclosure requirement challenged by the plaintiff. In fact, the Court explicitly said that disclosure requirements may even extend beyond express advocacy, so long as there is a substantial relation between those requirements and a sufficiently important governmental interest.

The Court did note the possibility of a successful as-applied challenge to a disclosure requirement on the basis that the speaker's donors "would face threats, harassment, or reprisals if their names were disclosed."<sup>20</sup> However, the Court stated, as it did in *Doe v. Reed*, that a party challenging a disclosure requirement on that basis must provide evidence that its donors would face such a backlash.

### **Language Used to Define Express Advocacy and its Functional Equivalent**

The federal government and states have used different approaches to define independent expenditures in accordance with *Buckley* and *WRTL II*. Some offer a definition or other language explaining what constitutes the functional equivalent of express advocacy. Some do not reference functional equivalence and instead include communications lacking the magic words within the definition of express advocacy directly by using language similar to that used by other jurisdictions to define its functional equivalent. Others still limit express advocacy to communications containing the magic words.

Case law addressing the issue makes it clear that the language must create a standard that 1) creates an objective test that looks to the perception of the audience as opposed to the intent of the speaker; and 2) is reasonably clear. Because the standard adopted by the Court in *WRTL II* has been extensively litigated and the FEC's definition of "expressly advocating" withstood review in *Citizens United*, there may be an advantage in using language similar to one or the other if the Board decides to go forward with a recommendation to expand the definition of an independent expenditure under Chapter 10A.

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<sup>18</sup> *Citizens United*, at 369.

<sup>19</sup> *Citizens United*, at 335.

<sup>20</sup> *Citizens United*, at 370.

## FEC Definition

Within its regulations, the FEC only uses the term functional equivalent when defining coordinated communications, stating that “a communication is the functional equivalent of express advocacy if it is susceptible of no reasonable interpretation other than as an appeal to vote for or against a clearly identified Federal candidate.”<sup>21</sup> Although it doesn’t use the term functional equivalent in reference to independent expenditures, the FEC defines “expressly advocating” to include any communication, “which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate(s),” or any communication that:

[w]hen taken as a whole and with limited reference to external events, such as the proximity to the election, could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s) because—

- (1) The electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and
- (2) Reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s) or encourages some other kind of action.<sup>22</sup>

## State Definitions

Rhode Island defines functional equivalence to include communications that “can only be interpreted by a reasonable person as advocating the election, passage, or defeat of a candidate or referendum, taking into account whether the communication mentions a candidate or referendum and takes a position on a candidate's character, qualifications, or fitness for office.”<sup>23</sup>

New Hampshire defines functional equivalence to include any communication that “when taken as a whole . . . is likely to be interpreted by a reasonable person only as advocating the election or defeat of a clearly identified candidate or candidates or the success or defeat of a measure or measures, taking into account whether the communication involved mentions a candidacy or a political party, or takes a position on a candidate's character, qualifications, or fitness for office.”<sup>24</sup>

California does not use the term functional equivalent and instead defines express advocacy to include any communication that:

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<sup>21</sup> [11 CFR § 109.21 \(c\) \(5\)](#).

<sup>22</sup> [11 CFR § 100.22](#).

<sup>23</sup> [17 R.I. Gen. Laws Ann. § 17-25-3 \(17\)](#).

<sup>24</sup> [N.H. Rev. Stat. Ann. § 664:2 \(XXII\)](#).

is not susceptible of any reasonable interpretation other than as an appeal to vote for or against a specific candidate or measure. A communication is not susceptible of any reasonable interpretation other than as an appeal to vote for or against a specific candidate or measure when, taken as a whole, it could only be interpreted by a reasonable person as containing an appeal to vote for or against a specific candidate or measure because of both of the following:

- (i) The electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning.
- (ii) Reasonable minds could not differ as to whether it encourages a vote for or against a clearly identified candidate or measure, or encourages some other kind of action on a legislative, executive, or judicial matter or issue.<sup>25</sup>

Likewise, Nevada defines express advocacy to include any communication that:

taken as a whole, is susceptible to no other reasonable interpretation other than as an appeal to vote for or against a clearly identified candidate or group of candidates or a question or group of questions on the ballot at a primary election, general election or special election. A communication does not have to include the words “vote for,” “vote against,” “elect,” “support” or other similar language to be considered a communication that expressly advocates the passage or defeat of a candidate or a question.<sup>26</sup>

West Virginia also does not use the term functional equivalent and instead simply defines express advocacy to include any communication that “[i]s susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.”<sup>27</sup> Maine uses a virtually identical definition.<sup>28</sup> Similarly, Alaska defines an “express communication” to include any “communication that, when read as a whole and with limited reference to outside events, is susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate.”<sup>29</sup> South Dakota does not use the term functional equivalent, and instead defines express advocacy to include any communication that:

[i]f taken as a whole and with limited reference to external events, such as the proximity to the election, may only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidates or public office holders, or the placement of a ballot question on the ballot or the adoption or defeat of any ballot question because:

- (i) The electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and
- (ii) Reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidates or public office holders, or the placement of a ballot question on the ballot or the adoption

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<sup>25</sup> [Cal. Gov't Code § 82025 \(c\) \(2\) \(A\).](#)

<sup>26</sup> [Nev. Rev. Stat. Ann. § 294A.0025.](#)

<sup>27</sup> [W. Va. Code Ann. § 3-8-1a \(13\) \(C\).](#)

<sup>28</sup> [Code Me. R. tit. 94-270 Ch. 1, § 10 \(2\) \(B\).](#)

<sup>29</sup> [Alaska Stat. Ann. § 15.13.400 \(7\).](#)

or defeat of any ballot question or encourages some other kind of action.<sup>30</sup>

Arizona also does not use the term functional equivalent, and instead defines express advocacy to include a communication containing “a campaign slogan or words that in context can have no reasonable meaning other than to advocate the election or defeat of one or more clearly identified candidates,” or:

a general public communication, such as in a broadcast medium, newspaper, magazine, billboard or direct mailer referring to one or more clearly identified candidates and targeted to the electorate of that candidate(s) that in context can have no reasonable meaning other than to advocate the election or defeat of the candidate(s), as evidenced by factors such as the presentation of the candidate(s) in a favorable or unfavorable light, the targeting, placement or timing of the communication or the inclusion of statements of the candidate(s) or opponents.<sup>31</sup>

### **Reasonable Minds or Person Standard**

There is little case law containing any in-depth discussion of what a reasonable person is in terms of interpreting a definition of express advocacy. Courts have generally looked at the content and context of the speech and after explaining the facts, have concluded that it is not reasonable to interpret the speech as something other than express advocacy, or vice versa. In *Citizens United*, the U.S. Supreme Court found that the film produced by the plaintiffs was “the functional equivalent of express advocacy,” noting that “there is no reasonable interpretation of *Hillary* other than as an appeal to vote against Senator Clinton.”<sup>32</sup> The Court rejected the argument that the film was merely a documentary, noting that “[t]he movie’s consistent emphasis is on the relevance of these events to Senator Clinton’s candidacy for President.”<sup>33</sup>

In 2014 the Arizona Court of Appeals considered an attack ad ran shortly before a general election, discussing a candidate for Attorney General. The add stated the candidate had “voted against tougher penalties for statutory rape” and allowed a teacher to return to teaching after being caught “looking at child pornography on a school computer,” and urged viewers to “tell Superintendent Horne to protect children, not people who harm them.”<sup>34</sup> The court easily concluded that “the only reasonable purpose for running such an advertisement immediately before the election was to advocate Horne’s defeat as candidate for Attorney General.”<sup>35</sup> In doing so, the court considered “the presentation of the candidate in an unfavorable light and the targeting, placement, and timing of the communication.”<sup>36</sup>

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<sup>30</sup> [S.D. Codified Laws § 12-27-1 \(9\)](#).

<sup>31</sup> [Ariz. Rev. Stat. Ann. § 16-901.01](#).

<sup>32</sup> *Citizens United*, at 326.

<sup>33</sup> *Citizens United*, at 325.

<sup>34</sup> *Comm. for Justice & Fairness v. Arizona Sec’y of State’s Office*, [332 P.3d 94, 96](#) (Ct. App. 2014)

<sup>35</sup> *Comm. for Justice & Fairness*, at 102.

<sup>36</sup> *Comm. for Justice & Fairness*, at 102.

## **Conclusion**

If the Board decides to recommend an expanded definition of express advocacy to include a functional equivalent, then that definition should include an objective test. The reasonable person standard articulated in *WRTL II* and the FEC's definition of "expressly advocating" has been successfully adopted by many states as the test for communications that have the purpose of supporting or defeating a clearly identified candidate.

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

**IN THE MATTER OF THE INVESTIGATION  
OF MINNESOTA FAMILY COUNCIL**

**FINDINGS, CONCLUSIONS,  
AND ORDER**

**Background**

In early July 2014, the Campaign Finance and Public Disclosure Board became aware of two communications that were being disseminated with the attribution "Prepared and paid for by Minnesota Family Council" (MFC) and the statement: "Learn more at [www.mfc.org](http://www.mfc.org)." The communications each related to Sheila Kihne, known to the Board to be a candidate in the Republican primary election for House District 48B. Copies of the communications are attached to and made a part of this document as exhibits A and B.

The communications identified Kihne as a "Trusted Conservative" and stated:

Sheila will:

Restore fiscal discipline to  
the state budget

Defend our second  
amendment

Strengthen Minnesota's  
schools

Protect life and family  
values

Board records indicated that Ms. Kihne was not a member of the Minnesota Legislature when the communications were disseminated. Thus, unless elected, she had no ability different than that of any private citizen to accomplish the things MFC said she would do.

The communications also included a prominent notice: "Primary Election Aug. 12th!" The communications further informed recipients that "Early voting begins on Friday, June 27th at Eden Prairie City Hall." The early voting notice included the address of the city hall and the hours that it was open. In one case the communication expressly advised readers to "Vote early starting June 27th at Eden Prairie City Hall."

Based on the content of the communications, the Board directed its Executive Director to initiate an investigation into whether the communications and any similar communications by MFC were subject to the disclosure requirements of Minnesota Statutes Chapter 10A, the Campaign Finance and Public Disclosure Act.

Board staff asked MFC for information regarding the communications and any other communications disseminated by MFC related to the Kihne election. In response, MFC provided copies of seven mail piece communications, one newspaper ad, and a number of broadcast television and online communications. Most of the communications were similar to the two initially considered by the Board.

In its response, MFC argued that "only communications that 'expressly advocate' for or against a candidate can be regulated." (Citing §10A.01, subs. 16a and 18, the definitions of "expressly

advocating" and "independent expenditure.") MFC asserted that because the communications did not contain express advocacy, they were not subject to Chapter 10A.

### **Analysis**

MFC is an association that has as its major purpose something other than to influence the nomination or election of candidates in Minnesota. This conclusion was reached in the context of a Board investigation in 2012 and the Board has found no new facts that would change the characterization of the association. As a result, MFC is not a political committee. If it is to report at all, it will be through a political fund, which is the campaign finance disclosure mechanism used for non-major-purpose associations.

A political fund is:

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 one or more candidates or to promote or defeat a ballot question. Minnesota statutes section 10A.01, subdivision 28.

The definition of a political fund makes it clear that once an association expends money to influence the nomination or election of candidates, that money constitutes the association's political fund, which exists as a matter of law without the association doing anything other than the spending.

An association is required to register its political fund after it has "made expenditures" of more than \$750 or made "independent expenditures" of more than \$1,500.<sup>1</sup> Minnesota statutes section 10A.14. An "expenditure" is

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 . . . Minnesota statutes section 10A.01, subdivision 9.

The phrase "to influence the nomination or election of one or more candidates" used in the definition of a political fund and the phrase "for the purpose of influencing the nomination or election of a candidate" used in the definition of expenditure are interchangeable and are construed by the Board to mean the same thing. Thus, if MFC spent money to influence the nomination of Sheila Kihne in the primary election, the accumulation of money used for that purpose constitutes MFC's political fund and the spending transactions constitute "expenditures."

The controlling question is whether the money MFC spent on the Kihne literature was spent "to influence" (or "for the purpose of influencing") the nomination of Ms. Kihne through the primary election process or for some other purpose.<sup>2</sup>

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<sup>1</sup> A political fund is not an entity separate from the association that did the spending. Rather, it is an accounting mechanism used to track spending that is subject to disclosure. Registration is simply notifying the Board that the accounting mechanism exists and informing the Board of the name of the contact person for the association.

<sup>2</sup> There is no evidence that the MFC expenditures were 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. Money spent 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 is presumed to be to influence the nomination or election of that



The Board first considered whether the communications constituted independent expenditures. An independent expenditure is an expenditure that is made completely independently from a candidate and that advocates for the election or defeat of the candidate using words or phrases of express advocacy. An independent expenditure is, by definition, an expenditure made for the purpose of influencing the nomination or election of a candidate. Minnesota statutes section 10A.01, subdivisions 18 and 16a.

Minnesota Statutes do not define what "words or phrases of express advocacy" are and the Board has not adopted administrative rules to clarify the statutory language. However, the U.S. Supreme Court in a brief footnote in the case of *Buckley v. Valeo*, 424 U.S. 1 (1976), suggested that words of express advocacy included words and phrases such as "vote for," "elect," "vote against." For the purposes of this investigation, the Board adopts the *Buckley* definition.

There is no evidence to suggest that the communications were not made completely independently of the candidate. Thus, the factor on which their characterization as independent expenditures depends is whether or not they expressly advocated for Ms. Kihne's nomination in the primary election. A copy of the MFC communication that has the strongest potential for being express advocacy is attached to and made a part of this document as exhibit C. The communication states on the front: "Sheila Kihne is fighting the liberal special interests." On the reverse the piece includes the following statements:

Liberals like Obama and Franken don't want Sheila.  
Don't let them win. Plan ahead, and vote early.  
VOTE EARLY IN PERSON  
Eden Prairie City Center  
8080 Mitchell Road, Eden Prairie Minnesota  
Monday through Friday 8 a.m.- 4:30 pm [sic]

VOTE BY MAIL  
Request your absentee ballot quickly and easily online.  
[www.sos.state.mn.us](http://www.sos.state.mn.us)

Primary Election Aug. 12th!

Sheila Kihne  
Trusted Conservative

A careful examination of this communication leads the Board to conclude that the piece is not an independent expenditure because MFC has avoided using specific words or phrases of express advocacy such as those described in the *Buckley* footnote. None of the other MFC communications comes closer to express advocacy than the example above. Thus, the MFC communications are not independent expenditures.

Having concluded that the MFC spending does not constitute approved expenditures or independent expenditures, the question on which this matter hinges is whether an expenditure that is made independently of the candidate, yet does not meet the narrow criteria defining an independent expenditure, can be for the purpose of influencing the candidate's nomination or

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candidate and constitutes an approved expenditure. Since there is no evidence that the expenditures were approved expenditures, that topic is not discussed further in this document.

election and, thus, subject to disclosure. MFC asserts that it cannot, but Supreme Court First Amendment jurisprudence suggests that the answer is not so clear.

In *Buckley v. Valeo*, the Supreme Court determined that when applied to a non-major-purpose association acting completely independently of a candidate, the phrase "for the purpose of influencing" would be constitutional if it was construed narrowly to include only expenditures for communications that expressly advocate the election or defeat of a clearly identified candidate.

In *MCCL v. Kelley*, 698 N.W.2d 424 (Minn. 2005), the Minnesota Supreme Court considered the definition of "to influence" elections in the context of political funds. The Minnesota Court stated that the *Buckley* decision requiring a narrowing construction of the phrase "for the purpose of influencing" was controlling with respect to interpretation of the phrase "to influence" in Chapter 10A.

Thus, after *Buckley* and *MCCL*, it was clear that money spent by a Minnesota non-major-purpose association independently of candidates could constitutionally be subject to disclosure only if the phrases "to influence" and "for the purpose of influencing" were narrowly construed. The construction suggested in *Buckley* and adopted in *MCCL* was to limit application of the disclosure requirement for non-major-purpose associations to only those expenditures that expressly advocated for the election or defeat of a candidate. Minnesota's independent expenditure statutes capture this concept.

However, analysis of First Amendment protections as applied to non-major-purpose associations did not stop with *Buckley* and *MCCL*. Subsequent U.S. Supreme Court decisions made it clear that the phrases "to influence" or "for the purpose of influencing" need not be construed as narrowly as suggested by the *Buckley* court in order to preserve their constitutionality when applied to non-major-purpose associations. Through two key cases further examining what communications by a non-major-purpose association may constitutionally be subject to disclosure, the Supreme Court has concluded that disclosure is also constitutional if the communication "is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate."<sup>3</sup> This type of communication is referred to as the functional equivalent of express advocacy.

Prior to 2014 both the definition of "expenditure" and of "independent expenditure", when applied to a non-major-purpose association, required the purpose of influencing an election. Thus, both could include communications that were either express advocacy or the functional equivalent of express advocacy.<sup>4</sup> In 2014, however, Chapter 10A was amended to restrict the definition of independent expenditure to those communications that used words or phrases of express advocacy, precluding the use of the functional equivalent test to conclude that an expenditure made independently of a candidate was an "independent expenditure". However, the definition of "expenditure" itself was not changed.

The 2014 amendment results in a distinction between two communications, both made independently of the candidate. The first, which advocates for the election of the candidate using words or phrases of express advocacy, is an independent expenditure, which will trigger the disclosure requirements of Chapter 10A. The second, a communication that does not use words or phrases of express advocacy, but is susceptible of no reasonable interpretation other than as an

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<sup>3</sup> See *McConnell v. FEC*, 540 U.S. 93 (2003); *FEC v. Wisconsin Right To Life (WRTL II)*, 551 U.S. 449 (2007) (Quoted). See also, *Citizens United v. FEC*, 558 U.S. 310 (2010), reaffirming the principle.

<sup>4</sup> The Board has previously noted that the definition of expenditure could be defined based on either the magic words or the functional equivalent of express advocacy, but it has not adopted that principle for Minnesota. See Advisory Opinion 428.

appeal to vote for or against a specific candidate, could also constitutionally be subject to disclosure requirements under the functional equivalent approach of *WRTL II*.

The Board has expressed in various contexts that its interpretation of Chapter 10A as a body of law is intended to provide the highest level of disclosure permitted by its language and constitutional principles. Consistent with that interpretation, the Board concludes that it would be permissible, both from a statutory interpretation and a constitutional law standpoint, to conclude that the definition of expenditure in §10A.01, subd. 9, and in the political fund registration requirement of §10A.14, subd. 1, apply to a non-major-purpose association, acting independently of a candidate, that makes a communication that is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.

The constitutional law now seems clear that the statutes subjecting non-major-purpose associations to disclosure requirements when they make expenditures "to influence" and "for the purpose of influencing" elections are constitutional as long as those phrases are construed to limit the disclosure requirement to expenditures that constitute express advocacy or its functional equivalent. However, the Board has been cautious in considering how this established constitutional concept should be recognized in Minnesota.

In Advisory Opinion 428 the Board declined to recognize the concept because of ongoing litigation at the federal level and because it considered the administrative rulemaking process to be better suited for statutory interpretations of general applicability. Although the federal litigation has ended, removing the legal questions surrounding the functional equivalent concept, the Board still concludes that administrative rulemaking is the preferred approach for statutory construction. As a result, the Board declines to conclude that the money spent by MFC for the communications that are the subject of this matter are "expenditures" under Chapter 10A.<sup>5</sup>

### **Findings of Fact**

1. The MFC published a number of communications naming candidate Sheila Kihne during the 2014 primary election.
2. The communications were made completely independently of candidate Kihne.
3. The communications did not include words or phrases of express advocacy as interpreted by the Board for the purposes of this investigation.
4. Some of the communications, including those that are included as exhibits A, B, and C to this document, are susceptible of no reasonable interpretation other than as an appeal to vote for candidate Kihne in the primary election.

### **Conclusions of Law**

1. The expenditures for the MFC communications were not independent expenditures or approved expenditures.

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<sup>5</sup> The Board notes that the adjudication process is an appropriate posture for the construction of statutes. The fact that the Board does not use this matter to adopt the functional equivalent approach to defining "to influence" should not be taken to suggest that it has relinquished its authority to do so in the context of a future investigation or through administrative rulemaking.

2. Under the current interpretation of Minnesota statutes, an expenditure by MFC will not be considered to be for the purpose of influencing the nomination or election of a candidate unless the resulting communication uses words or phrases of express advocacy.
3. The current interpretation of Minnesota statutes, which takes a more restrictive approach to defining "to influence" and "for the purpose of influencing" is not constitutionally mandated but will not be modified by the Board in this matter.
4. Based on the current interpretation of statute, the MFC communications are not subject to disclosure and MFC is not in violation of Chapter 10A.

**Order**

This matter is dismissed.

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George A. Beck, Chair

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Date

Primary  
Election  
Aug. 12th!



**SHEILA KIHNE**



**Trusted Conservative.**

*Early voting begins on Friday, June 27th at Eden Prairie City Hall  
8080 Mitchell Road  
Open Monday-Friday 8:00am to 4:30pm*



Prepared and paid for by Minnesota Family Council  
2912 Anthony Lane South  
Minneapolis, MN 55418  
Learn more at [www.mfc.org](http://www.mfc.org)



# SHEILA KIHNE



Trusted Conservative.

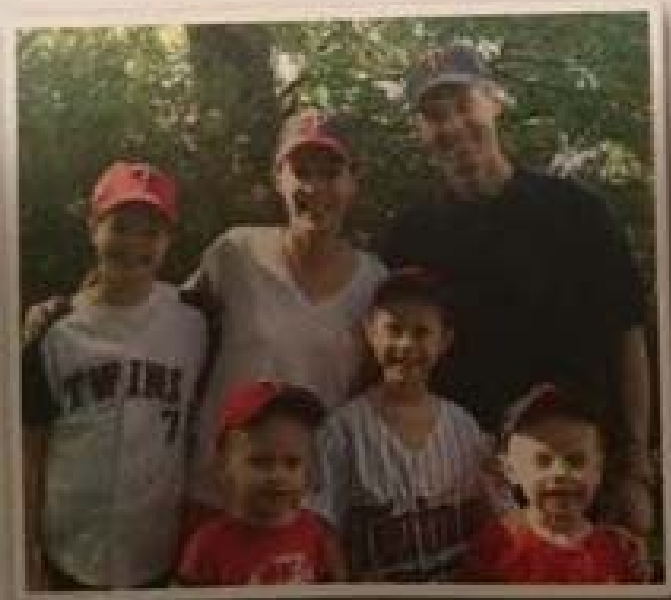
## Sheila will:

**Restore** fiscal discipline to the state budget

**Defend** our second amendment

**Strengthen** Minnesota's schools

**Protect** life and family values



Primary  
Election  
Aug. 12th!



# SHEILA KIHNE



Primary  
Election  
Aug. 12th!

Trusted Conservative.



*Former University of Minnesota  
Student Body President*



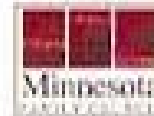
*Eden Prairie resident, author and  
former small business owner*



*Understands the importance of  
cutting state government spending*



*Will stand up for YOUR strong family  
values*



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MINNESOTA FAMILY COUNCIL



Primary Election August 12th  
Early voting starts June 27th at Eden Prairie City Hall



## **Trusted Conservative Sheila Kihne is fighting the liberal special interests**

- Sheila is a respected community leader
- Sheila will fight wasteful spending and government waste
- Sheila has strong ethics and will fight for YOUR family

**SHEILA KIHNE**



Primary  
Election  
Aug. 12th!

*Election day is August 12th, but early voting has already started! Check back for details!*



Liberals like Obama and Franken don't want Sheila.  
Don't let them win. Plan ahead, and vote early.



***VOTE EARLY IN PERSON***

Eden Prairie City Center  
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Primary  
Election  
Aug. 12th!



**SHEILA KIHNE**

Trusted Conservative.



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Minneapolis, MN 55418

Learn more at [www.mfc.org](http://www.mfc.org)

## § 100.22 Expressly advocating (52 U.S.C. 30101(17)).

**Expressly advocating** means any communication that—

Uses phrases such as “**vote for the President,**” “**re-elect your Congressman,**” “**support the Democratic nominee,**” “**cast your ballot for the Republican challenger for U.S. Senate in Georgia,**” “**Smith for Congress,**” “**Bill McKay in '94,**” “**vote Pro-Life**” or “**vote Pro-Choice**” accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, “**vote against Old Hickory,**” “**defeat**” accompanied by a picture of one or more candidate(s), “**reject the incumbent,**” or communications of campaign slogan(s) or individual word(s), which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate(s), such as posters, bumper stickers, advertisements, etc. which say “**Nixon's the One,**” “**Carter '76,**” “**Reagan/Bush**” or “**Mondale!**”; or

When taken as a whole and with limited reference to external events, such as the proximity to the election, could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s) because—

1. The electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and
2. Reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s) or encourages some other kind of action.



# MINNESOTA

## CAMPAIGN FINANCE BOARD

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**Date:** February 6, 2019

**To:** Board members  
Counsel Hartshorn

**From:** Andrew Olson, Legal/Management Analyst

**Subject:** Enforcement report for consideration at the February 6, 2019 Board meeting

### **A. Consent Items**

#### **1. Administrative termination of lobbyist Bert McKasy (9977)**

In response to a notice regarding the need to file a lobbyist disbursement report, Mr. McKasy stated that he has not engaged in lobbying in 2018 and is terminally ill. Because he filed a report covering the period through May 31, 2018, Board staff administratively terminated his lobbyist registration retroactive to that date, thereby eliminating the need to file any further reports.

#### **2. Administrative termination of lobbyist Thomas Keliher (9283)**

Mr. Keliher passed away on September 20, 2018. Board staff has administratively terminated his lobbyist registration retroactive to that date.

#### **3. Administrative termination of lobbyist Alexander Wald (4131)**

Mr. Wald's principal association, the Minneapolis Area Association of Realtors (MAAR), notified Board staff that Mr. Wald has not been employed by the association since April 2018 via letter dated December 20, 2018. A disbursement report was filed for Mr. Wald the same day, covering the second half of 2018. Board staff administratively terminated Mr. Wald's lobbyist registration effective December 20, 2018.

#### **4. Administrative termination of lobbyist Nicque Mabrey (2886)**

Ms. Mabrey's principal association, OutFront MN, notified Board staff that Ms. Mabrey has not been employed by the association since the spring of 2015. Board staff administratively terminated Ms. Mabrey's lobbyist registration retroactive to December 31, 2015.

## **B. Discussion Items**

### **1. Request to withdraw registration of Responsible Government for Wright County Committee (41216)**

The Responsible Government for Wright County Committee was registered as an independent expenditure political committee on October 10, 2018. In early November the committee's legal counsel contacted Board staff and explained that the committee only sought to influence elections for county offices, not state offices. The committee's legal counsel is now formally requesting withdrawal of the committee's registration as it should not have registered with the Board.

### **2. Balance adjustment request – Neighbors for Peggy Flanagan (17858)**

The Neighbors for Peggy Flanagan committee reported an ending cash balance for 2017 of \$1,169.85, however, their actual cash balance was \$1,373.55, a difference of \$203.70. The committee's treasurer believes this discrepancy was caused by mistakenly reporting a \$15 expenditure as having occurred in 2017 rather than 2018, and not accounting for a combined total of \$188.70 in contributions and credit card processing fees from a 2015 special election campaign. The treasurer states that the credit card contributions received in 2015 were processed by a company that is now defunct, making it impossible for them to obtain records regarding those contributions. The treasurer is requesting that the Board adjust the committee's 2017 ending cash balance upward from \$1,169.85 to \$1,373.55.

### **3. Request to refer matter to the Attorney General's Office – Resilient PAC (41179)**

Resilient PAC is a political committee that failed to file its 2018 pre-primary and pre-general reports and failed to amend its September 2018 report after being informed of reporting errors by staff. Letters were mailed in August, November, and December 2018, and an email was sent in December 2018, but no response has been received. The committee has accrued a \$1,000 late fee and a \$1,000 civil penalty for the pre-primary report. Staff is asking the Board to refer the matter to the Attorney General's Office to seek an order compelling the filing of the pre-primary report and a judgment for the accrued late filing fee and civil penalty. Because the committee may continue to fail to file its 2018 pre-general report or amend its September 2018 report, staff is also asking the Board to approve referral of those matters to the Attorney General's Office once the committee accrues the statutory maximum in late filing fees and civil penalties for those reports.

### **4. Request to refer matter to the Attorney General's Office – Minneapolis DFL Committee (20567)**

The Minneapolis DFL Committee failed to file its 2018 pre-primary and pre-general reports. Letters were mailed in August and November 2018 but no response has been received. The party unit has accrued a \$1,000 late fee and a \$1,000 civil penalty for the pre-primary report. Staff is asking the Board to refer the matter to the Attorney General's Office to seek an order compelling the filing of the pre-primary report and a judgment for the accrued late filing fee and civil penalty. Because the party unit may continue to fail to file its 2018 pre-general report, staff is also asking the Board to approve referral of that matter to the Attorney General's Office once the party unit accrues the statutory maximum late filing fee and civil penalty for that report.

### C. Waiver Requests

	Committee/ Entity	Late Fee/ Civil Penalty	Report Due	Factors	Most Recent Balance	Previous Waivers
1	6th Congressional District GPM (20912)	\$800 LFF	2018 Pre- general	Party unit never received nor spent more than \$100 and thus was never required to register. The party unit has filed a termination statement.	\$100	No
2	Friends of Fair Courts (Anthony Brown) (18403)	\$175 LFF	September 2018	The candidate misunderstood the registration requirement and registered the committee August 31, 2018, triggering the requirement to file a September report. Based on its receipts, the committee wasn't required to register with the Board until mid-October. The treasurer also experienced technical difficulties when attempting to file the report electronically.	\$3,669 (consists entirely of a loan from the candidate)	No
3	Hausman (Alice) Volunteer Committee (12313)	\$750 LFF	2018 Pre- general	New treasurer had trouble certifying and filing the report using the CFR software. He initially filed another copy of the pre-primary report rather than the pre-general report. He was in contact with staff and eventually was able to certify and file the report after being told how to download data from the Board's FTP server.	\$8,170	No
4	Lobbyist Rekoe Howard (4461)	\$25 LFF	Jun-Dec 2018	New lobbyist had difficulty logging into website and had limited time to try to resolve the issue as he was using a public computer terminal. He filed a paper report in person the day after the due date.		No
5	52nd Senate District RPM (20886)	\$50 LFF	2018 Pre- primary	Former treasurer moved out of state and the party unit had difficulty finding a new treasurer. The chair ultimately took over the treasurer's duties but filed the report a day late.	\$52	No
6	Minn PACE (80003) (NASW-MN)	\$50 LFF	2018 Pre- general	New deputy treasurer became aware of the due date shortly before the report was due and the supporting association's office was closed on the due date. She has since updated the treasurer's address to reflect the supporting association's office address rather than the treasurer's home address, so she will receive mailed notices from the Board directly.	\$434	No
7	1st Judicial District Republican Committee (40959)	\$50 LFF	2018 May	Former treasurer moved out of state in May and the party unit had difficulty finding a new treasurer to file the May report on short notice. A no change report was filed a few days late. The committee had no financial activity at all in 2017 or the first five months of 2018.	\$1,132	\$100 LFF waived Aug. 2014 (treasurer was adamant he received no notice that a report was due)

8	Lobbyist Dan McGrath (3057) and Minnesota Majority	\$1,989.61 LFFs \$2,000 CPs	June-Dec 2016; 2016 Principal	Lobbyist states he thought his lobbyist registration had been terminated years ago and he hasn't engaged in lobbying since at least 2016, when his principal association ceased operations. Lobbyist states he was very ill in 2015 and then sought further treatment in 2017. All mail was sent to the address of the principal association and he did not receive it. He states he is not employed and lacks the means to pay the outstanding fees and penalties. This request includes \$989.61 of a \$1,000 LFF and a \$1,000 CP for the late filing of the disbursement report covering the second half of 2016, owed by the lobbyist individually, as well as a \$1,000 LFF and \$1,000 CP for the late filing of the 2016 principal report, owed by the principal.		No
9	62nd Senate District DFL (20483)	\$1,000 LFF	2018 Pre-primary	Treasurer failed to file the report and did not respond to any communication from the party unit chair or Board staff. As soon as she learned the report had not been filed, the chair filed the report. The party unit has since elected a new treasurer.	\$4,710	No
10	Alberder Gillespie (17891)	\$700 LFF	2017 Year-end	Candidate didn't realize that her treasurer failed to file the report by the deadline until she received a letter regarding the late fee. She stated that problems with the personal relationship between herself and her treasurer impacted communication between the committee and the Board.	\$7,282	No
11	28th Senate District DFL (20719)	\$2,000 LFFs \$1,300 CPs	2018 Pre-primary; 2018 Pre-general	New treasurer said there was considerable confusion when he became treasurer, causing the pre-primary and pre-general reports to be filed late. Both reports were filed as no-change reports. However, there is an unexplained balance discrepancy of \$290.60 between the reported 2017 ending cash balance and the reported 2018 beginning cash balance.	\$310	No
12	Fight For Our Future PAC (41160)	\$1,125 LFFs \$100 CP	May 2018; 2018 Pre-primary; 2018 Pre-general	The committee's officers lacked time to devote to the committee, thus the committee was inactive and their balance remained the same from late-2016 through late-October of 2018. The treasurer failed to file the 2018 pre-primary report until September 5, which accounts for \$1,000 of the accrued LFFs and the \$100 CP. All of the late-filed reports were no change reports. The officers have begun to liquidate the committee's assets and have decided to terminate its registration with the Board.	\$19,063	No
13	7B House District RPM (20332)	\$800 LFF	2018 Pre-general	Treasurer does not feel qualified to prepare reports so the chair has been doing so and forgot to submit the pre-general report in the midst of also serving as the campaign manager and treasurer for the campaign committee of the party unit's treasurer, who was running as a first-time House candidate.	\$834	\$125 LFF waived June 2013 (former treasurer had medical issues with family members)

14	Freeborn County DFL (20038)	\$50 LFF	2018 Pre-general	Treasurer since 2017 does not know how to use the CFR software but has been filing reports via the software with the assistance of the treasurer of another party unit. That individual ultimately helped to file the report but it was a day late. A different person with more time and a plan to receive training on how to use the software has since taken over as treasurer.	\$2,338	\$350 LFF waived November 2017 (former treasurer convicted of fraud after theft from party unit)
15	Houston County RPM (20568)	\$200 LFF	2018 Pre-general	Treasurer since 2016 still does not feel he understands the CFR software. He states that he has sought training but hasn't received training specific to the software and has had difficulty completing reports. He intends to resign as treasurer in February.	\$466	\$100 LFF waived Sept. 2018 (treasurer submitted report late as he needed time to ensure a contribution was reported correctly)

**D. Informational Items**

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

Al Jimenez Hopper, \$25  
White Earth PAC \$1000

**2. Payment of civil penalty for year-end 2012 report of receipts and expenditures**

HRCC, \$3000

**3. Payment of civil penalty for year-end 2013 report of receipts and expenditures**

HRCC, \$3000

**4. Payment of civil penalty for year-end 2014 report of receipts and expenditures**

HRCC, \$3000

**5. Payment of civil penalty for year-end 2016 report of receipts and expenditures**

HRCC, \$3000

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

HRCC, \$3000  
White Earth PAC, \$500

**7. Payment of late filing fee for April 16, 2018 report of receipts and expenditures**

White Earth, PAC \$1000

**8. Payment of late filing fee for June 14, 2018 report of receipts and expenditures**

White Earth PAC, \$1000

**9. Payment of late filing fee for September 25, 2018 report of receipts and expenditures**

CWA Cope PCC, \$25  
CWA Working Voices, \$25  
MPA PAC, \$50  
SEIU Local 284, \$25  
TCO PAC, \$25  
Twin Cities DSA, \$50  
White Earth PAC, \$1000

**10. Payment of late filing fee for July 30, 2018 report of receipts and expenditures**

AFSCME Local 2822, \$400  
White Earth PAC \$1000

**11. Payment of civil penalty for July 30, 2018 report of receipts and expenditures**

AFSCME Local 2822, \$100  
SD67, \$50  
White Earth PAC, \$1000

**12. Payment of civil penalty for accepting a contribution in excess of \$200 from an unregistered association without the required disclosure statement**

Burt Johnson, \$50

**13. Return of public subsidy payment**

Kelly Winsor, \$176.33

**14. Payment of late filing fee for October 29, 2018 report of receipts and expenditures**

Chisago County RPM, \$1000  
MN Jobs Coalition, \$50  
REALIEF, \$700  
Vote 66, \$250  
White Earth PAC, \$1000

**15. Payment of civil penalty for October 29, 2018 report of receipts and expenditures**

4<sup>th</sup> CD IPMN, \$50



Chisago County RPM, \$400  
White Earth PAC, \$300

**16. Payment of civil penalty for a corporate contribution**

Green Rock Apartments, \$100  
Sibley County RPM, \$90

**17. Anonymous contributions**

Doug Wardlow, \$300

**18. Payment of civil penalty for not providing disclosure statement with contribution in excess of \$200 from an unregistered association**

Heat & Frost Insulators Local 34, \$50

**19. Payment of civil penalty for disclaimer violations**

Joe Perske, \$500  
Land Stewardship Fund, \$200

**20. Payment of late filing fee for 24-hour notice during pre-general period**

East Central MN Area Labor Council, \$500  
Planned Parenthood MN PAC, \$850

Minnesota

Campaign Finance and Public Disclosure Board

17-20

DEC 24 AM 11:23



Suite 190 . Centennial Office Building . St. Paul MN 55155-1603 . 651/539-1180 . 800/657-3889 . cfboard@state.mn.us

Date: December 14, 2018

Dear Board

To: Bert McKasy  
1294 Aspen Way  
Mendota Heights MN 55118

I did not work in 2018. I have terminal cancer and will only live a few months so you will not be hearing from me again.

From: Campaign Finance and Public Disclosure Board

Subject: Lobbyist Disbursement Report due January 15, 2019

Bert McKasy

Your Lobbyist Disbursement Report covering the period of June 1 through December 31, 2018, is due January 15, 2019.

Please Note: No Late Filing Grace Period. A lobbyist who fails to file a required report by the due date is subject to a late filing fee of \$25 per day, not to exceed \$1000, beginning the first business day after the report was due.

The report may be completed and filed electronically through the Campaign Finance Board's website at the following link https://cfb.mn.gov/reports/#/lobbyist-reports/ Please see the Lobbyist Disbursement Online Reporting Guide on the reverse side of this notice.

Board records indicate you have created your own username and password through the IAM (identity and access management system) system. You will use those credentials to access the online reporting system.

If you have problems with your username or password, please call Marcia Waller at 651-539-1187, or Gary Bauer at 651-539-1185.

If you are a designated lobbyist, you must report the disbursements made directly by each association you represent as well as disbursements you made on the association's behalf. Designated lobbyists must also report on Schedule D the name and address of each officer and director of the association you represent. Previously disclosed officers and directors will be shown on the screen and may be updated. If Schedule D is blank you must provide the required information. Remember, lobbyist reports do not disclose compensation paid to the lobbyist.

If you are a reporting lobbyist, the reporting system will present you with the list of lobbyists for whom you are authorized to report. If the list is inaccurate, or if one or more of the lobbyists did not provide you with their lobbying disbursements for the period, you must notify the Board of the problem using the onscreen comment field.

You must file a report even if no disbursements occurred during the reporting period.

If you prefer not to file electronically you may:

- visit the Board website at https://cfb.mn.gov/reports/#/lobbyist-reports/ and print a copy of the required report form, or
- call the Board office at 651-539-1180 or 800-657-3889 to request that a report form be mailed/faxed to you.

If your report is not received in the Campaign Finance Board office by January 23, 2019, which is the fifth business day after the due date, the name of the individual lobbyist required to file the report, and the entity represented, will be listed on the Board's website.

**Waller, Marcia (CFB)**

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**From:** Grace Keliher <g.keliher@icloud.com>  
**Sent:** Friday, December 28, 2018 1:46 PM  
**To:** Waller, Marcia (CFB)  
**Subject:** Thomas Keliher  
**Attachments:** camp tom.docx

Dear Marcia,

This is a request to administratively terminate Thomas Keliher's registration since he passed away on September 20, 2018. Please see the attached letter.

Sincerely,

Grace Keliher

gkeliher@mnmsba.org

586 Prairie Circle East  
Eagan, MN 55123  
Re: Thomas Keliher

Minnesota Campaign Finance and Public Disclosure Board  
Suite 190  
Centennial Building  
St. Paul, MN 55155

Dear Board Members,

I am disheartened to report that Thomas Keliher (9283) has died. He passed away suddenly on September 20, 2018. He lobbied for Minnesota Power(560), the Association of \*Minnesota School Bus Operators(580), and \*Patients First(7401). I am asking the board to terminate his lobbyist registration effective on that date.

NW Petroleum 668

Sincerely,  
Grace Keliher (545)  
145 University Ave W  
St. Paul, MN

\* Report required



MINNEAPOLIS AREA  
REALTORS®

18 DEC 24 AM 11:24

CAMPAIGN FINANCE &  
PUBLIC DISCLOSURE BOARD

December 20, 2018

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

**RE: Requests Administrative Termination of Lobbyist Registration**

Dear Minnesota Campaign Finance Board:

The Minneapolis Area Association of REALTORS® (#1241) requests the Administrative Termination of Lobbyist Registration for Alexander WJ Wald (#4131). Mr. Wald was the former CEO and has not been with the company since April 2018. Therefore, he has no disbursements to report during the current filing period. All reporting is up to date at this time. All further reporting responsibilities can be directed to me, Eric J. Myers (#2140) as the designated lobbyist.

Sincerely,

Eric J. Myers  
Director of Government Affairs  
952-988-3124

# Minnesota Campaign Finance Board

190 Centennial Office Building, 658 Cedar St, St Paul, MN 55155

<https://cfb.mn.gov/>



## Lobbyist Termination Statement

### Filing instructions

- This statement must be completed and filed with a Lobbyist Disbursement Report when terminating a lobbyist registration.
- This form may be emailed to [cf.board@state.mn.us](mailto:cf.board@state.mn.us) or faxed to 651-539-1196 or 800-357-4114.
- All information on this form or report is public information and may be published on the Board's website at <https://cfb.mn.gov/>
- Do not use pencil or red ink to complete this form.
- Board staff may also be reached by phone at 651-539-1187 or 800-657-3889 or by email at [cf.board@state.mn.us](mailto:cf.board@state.mn.us).

### Lobbyist information

Name of lobbyist	<b>Alexander Wald</b>	Registration number	<b>4131</b>
Address		<b>5750 Lincoln DR</b>	
City, state, zip	<b>Edina, MN 55436</b>	Telephone (Daytime)	
Name of association, individual, political subdivision or public higher education system represented		Registration number	
<b>Minneapolis Area Association of REALTORS</b>		<b>1241</b>	

Date of termination: 5/31/2018

### Certification

I, Alexander Wald, certify that this report is complete, true, and correct.  
Print or type name of lobbyist

\_\_\_\_\_  
Signature of lobbyist

\_\_\_\_\_  
Date

**Any person who signs and certifies to be true a report or statement which the person knows contains false information, or who knowingly omits required information, is subject to a civil penalty imposed by the Board of up to \$3,000 and is subject to criminal prosecution for a gross misdemeanor.**

This document is available in alternative formats to individuals with disabilities by calling 651-539-1180, 800-657-3889, or through the Minnesota Relay Service at 800-627-3529.

18 DEC 24 AM 11:24  
CAMPAIGN FINANCE &  
DISCLOSURE BOARD

**Designated lobbyist status**

I was the designated lobbyist for this association.

**Lobbyist reporting status**

Complete one of the following three sections

I was a self-reporting lobbyist and:

I have no disbursements to report for the current reporting period.

**OR**

I have enclosed a Lobbyist Disbursement Report disclosing disbursements made during the current reporting period.

Lobbying disbursements made by me during the period from the last report filed through my termination are being reported by:

Name of lobbyist: Eric Myers Lobbyist registration #: 2140

I was the reporting lobbyist for:

Name of lobbyist(s) I reported for	Lobbyist reg. #

The enclosed Lobbyist Disbursement Report includes disbursements made by the lobbyists I am authorized to report for.

**OR**

The enclosed Lobbyist Disbursement Report does not include disbursements made by the lobbyists I am authorized to report for.

term.  
12-31-17

January 2nd, 2019

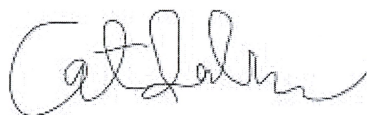
19 JAN -8 AM 9:40

CAMPAIGN FINANCE &  
PUBLIC DISCLOSURE BOARD

Dear Campaign Finance and Public Disclosure Board:

I am an authorized representative of OutFront Minnesota. I am writing because I have been instructed by your staff that we must write a letter to the Campaign Finance Board, asking that the former lobbyist, Nicque Mabrey be administratively terminated due to her nonresponse. Nique Mabrey's termination at OutFront Minnesota was in Spring 2015.

Best Regards,



Cat Salonek  
Policy and Organizing Director



Please let me know if you have questions or need help.

Thank you.

*Marcia J Waller*

Programs Administrator

Campaign Finance and Public Disclosure Board

658 Cedar Street, Suite 190

St Paul MN 55155

Tel: 651-539-1187

Fax: 651-539-1196

Website: [www.cfb.mn.gov](http://www.cfb.mn.gov)

**From:** Cat Salonek <[cat@outfront.org](mailto:cat@outfront.org)>

**Sent:** Thursday, December 13, 2018 3:11 PM

**To:** CFBEmail <[cfb.reports@state.mn.us](mailto:cfb.reports@state.mn.us)>; Monica Meyer <[mmeyer@outfront.org](mailto:mmeyer@outfront.org)>

**Subject:** Request: Please remove registered lobbyist

Dear MN Campaign Finance Board:

We noticed that Nicque Mabrey is still registered as a lobbyist with OutFront Minnesota. She has not worked with our organization for several years. I included our Executive Director, Monica Meyer, on this email.

Is it possible for you to remove her?

Thanks for all you do,

PAULA KANNE  
(612) 492-6927  
kanne.paula@dorsey.com

January 24, 2019

**VIA ELECTRONIC MAIL**

Jodi Pope  
Management Analyst  
Minnesota Campaign Finance and Public Disclosure Board  
658 Cedar Street  
St. Paul, MN 55155

Re: Withdraw Registration of Responsible Government for Wright County Committee

Dear Ms. Pope:

I am writing to withdraw the registration of the independent expenditure committee "Responsible Government for Wright County Committee," registration number 41216. The reason for withdrawing is that the committee intended to be active only on the Wright County level and did not intend, and does not intend in the future, to ever be active on the state level.

Very truly yours,



Paula Kanne

cc: Michael Drysdale, Esq. (via electronic mail)

## Neighbors for Peggy Flanagan (17858)

**From:** Leah Gardner <[leahjoannegardner@gmail.com](mailto:leahjoannegardner@gmail.com)>  
**Sent:** Monday, January 28, 2019 3:55 PM  
**To:** Pope, Jodi (CFB) <[jodi.pope@state.mn.us](mailto:jodi.pope@state.mn.us)>  
**Subject:** Re: Balance Adjustment for Peggy Flanagan's committee #17858

Hi Jodi,

We are working to submit a year-end report for Peggy Flanagan's state representative account, and will shortly thereafter be ready to terminate the account.

In doing our final reporting, we have determined that there is a difference of \$203.70 between what is in our records and what is in our bank account (there is an extra \$203.70 in the bank account).

Going back through the last couple of years, \$188.70 of this appears to date back to the special election in 2015 - in short, a combination of credit card contributions and processing fees appear to be missing. During that time the campaign made use of a 3rd party credit card processing platform that is now defunct, making it impossible to recover that data. (We have attempted to do so). We also have a \$15 discrepancy due to factoring in one more monthly email/ website fee than was actually incurred in the 2018 time period.

Given your preliminary approval of the adjustment, we will move forward with a 2018 report using a starting balance of \$1,373.55 as shown in the attached bank statement (making the 203.70 adjustment) and will then be able to show the account balancing out fully. Then we will wait for word on official approval on the adjustment as we prepare to terminate.

Thank you!

--

Leah Gardner  
612.867.8054



# MINNESOTA

## CAMPAIGN FINANCE BOARD

August 29, 2018

Certified and First Class Mail

Jamal Abdulahi  
Resilient PAC  
3501 27th Ave  
Minneapolis, MN 55406

7012 3460 0000 5258 4650

Dear Treasurer Abdulahi,

Your committee has failed to file with the Board its 2018 pre-primary report of receipts and expenditures due July 30, 2018. To date, the committee has accrued the statutory maximum \$1,000 late filing fee due to its failure to file the report. In addition to the late filing fee, on September 4, 2018, a civil penalty will begin accruing in the amount of \$100 a week up to a maximum of \$1,000 until the report is received.

Please immediately submit your report and mail or deliver a check for \$1,000 payable to the State of Minnesota to the Board at the address listed below. Under Minnesota Statutes, all late fees are deposited in the general fund of the state.

Failure to pay this late fee may result in referral to the Minnesota Department of Revenue or the Attorney General's office to begin the collection process.

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

If you have questions or concerns, please feel free to contact me.

Sincerely,

Megan Engelhardt  
Assistant Executive Director  
651-539-1182  
megan.engelhardt@state.mn.us



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Campaign Finance & Public Disclosure Board  
 190 Centennial Bldg 658 Cedar St  
 St Paul MN 55155

Postage \$ .50

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Return Receipt Fee (Endorsement Required) \$ 1.00

Restricted Delivery Fee (Endorsement Required)

NOV 16 2018

Postmark Here

7012 3460 0000 5258 4803

**NOTICE OF FAILURE TO FILE REPORT OF RECEIPTS AND EXPENDITURES**

**CERTIFIED and 1st CLASS MAIL**

David Gilbert Pederson  
Minneapolis DFL Committee  
2137 Minneapolis Ave  
Minneapolis MN 55406

Reg# 20567

November 16, 2018

Dear David Gilbert Pederson:

Your committee was required to file the 2018 Pre-General Report of Receipts and Expenditures by October 29, 2018. The report covered the period of January 1 through October 22, 2018. Campaign Finance and Public Disclosure Board records show that report information was mailed on or about October 11, 2018. As of today, your report has not been received.

A late filing fee of \$50 per business day began October 30, 2018. As of the date of this letter, the late fee is \$650.

You should also be aware that if you fail to file the report by November 23, 2018, the Board may impose an additional civil penalty of \$1,000.

To avoid additional late fees and a civil penalty, please electronically submit or send the report to the Board immediately. The Board's fax numbers are 651-539-1196 or 800-357-4114. You may email a copy to [cfb.reports@state.mn.us](mailto:cfb.reports@state.mn.us)

The Board may begin legal proceedings to compel the required filing and assessment of late filing fees and penalties.

If you need a new report form or have questions on completing the report, please call me at 651-539-1188 or 800-657-3889.

Sincerely,

Melissa Stevens  
Compliance Officer

cc Devin Hogan  
Minneapolis DFL Committee  
3403 Nicollet #4  
Minneapolis MN 55408



# MINNESOTA CAMPAIGN FINANCE BOARD

August 29, 2018

Certified and First Class Mail

David Gilbert Pederson  
Minneapolis DFL Committee  
2137 Minneapolis Ave  
Minneapolis, MN 55406

7012 3460 0000 5258 4735

Dear Treasurer Gilbert-Pederson,

Your committee has failed to file with the Board its 2018 pre-primary report of receipts and expenditures due July 30, 2018. To date, the committee has accrued the statutory maximum \$1,000 late filing fee due to its failure to file the report. In addition to the late filing fee, on September 4, 2018, a civil penalty will begin accruing in the amount of \$100 a week up to a maximum of \$1,000 until the report is received.

Please immediately submit your report and mail or deliver a check for \$1,000 payable to the State of Minnesota to the Board at the address listed below. Under Minnesota Statutes, all late fees are deposited in the general fund of the state.

Failure to pay this late fee may result in referral to the Minnesota Department of Revenue or the Attorney General's office to begin the collection process.

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

If you have questions or concerns, please feel free to contact me.

Sincerely,

Megan Engelhardt  
Assistant Executive Director  
651-539-1182  
megan.engelhardt@state.mn.us

cc: Devin Hogan (only via first class mail)

**Stevens, Melissa (CFB)**

---

**From:** Steve Laitinen <slaitinen.anokaswcd@gmail.com>  
**Sent:** Friday, November 23, 2018 5:13 AM  
**To:** CFBEmail  
**Cc:** daminnowhunter@gmail.com  
**Subject:** 6th Congressional District GPM report  
**Attachments:** IMG\_20181120\_0001.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

To whom this may concern ,

Attached to this email is a PDF containing a Termination report for the 6th Congressional District GPM.

I had left The Green Party of Minnesota last October and was told by the Chair at the time that they would change the reporting when they elected new officers earlier this spring. That never happened , instead the chair, Deanna, left the Party without informing anybody . This is why this has been overdue. I have had a couple of calls with Campaign Finance workers and expressed that we wished to terminate .

I was told since we were filing termination all I needed to file was the first page with the Termination box checked. We never had more than a 100 dollars. If there are any issues getting this resolved please contact me, so I can get into compliance.

Thank you,  
Steve Laitinen

# Friends of Fair Courts (Anthony Brown) 18403

**From:** [A.L. Brown](#)  
**To:** [Olson, Andrew \(CFB\)](#)  
**Subject:** Re: Friends of Fair Courts Fine (18403)  
**Date:** Tuesday, January 29, 2019 2:33:32 PM

---

Mr. Olson,

I would like to request a waiver from the fine imposed on my campaign committee. The Board imposed a fine of \$175.00 for filing a Report of Expenditures after the September 25, 2018, deadline. The Committee does not contest that the filing was late, but notes that there is a good reason for the tardy report.

1. I confused the need to report expenditures with the need to register a committee. I registered a committee before it was necessary and therefore the filing requirement was triggered. Had I not registered a committee, then the report would not have been due, and no late fee would have accrued.
2. Once my error was discovered, my treasurer worked diligently to get the report filed, but he experienced significant technical difficulties in uploading the report.

I hope the Board would consider these facts and waive all fines. If you need more information, please feel free to contact me.

A.L. Brown  
Capitol City Law Group, LLC  
The Allen Building  
287 East Sixth Street, Suite 20  
Saint Paul, Minnesota 55101  
Phone: (651) 705-8580  
Fax: (651) 705-8581



**From:** Joseph Stephenson <jr.mn.dfl@gmail.com>  
**Sent:** Wednesday, December 26, 2018 1:11 PM  
**To:** Engelhardt, Megan (CFB) <megan.engelhardt@state.mn.us>  
**Subject:** Fwd: FW: Pregeneral report due October 29, 2018

Ms. Engelhardt

I apologize for contacting you so late after receiving the notice of filing our pre-camp report late. I have been sick for the better half of December, and recently traveled to New Orleans to get married. I am forwarding you an email chain that I have had with yourself and a few other staff members at the Campaign Finance Board attempting to resolve an issue with the Campaign Finance Software from the dates of Oct 29 2018 through Nov 19 2018. After talking with Gary over the phone it turns out the software didn't download the latest patch, and that I was not listed as the treasurer of the Alice Hausman Campaign. Please take this into consideration when reviewing the late filing fee. If you require any more materials please let me know.

Regards

Joseph Stephenson

----- Forwarded message -----

**From:** Stevens, Melissa (CFB) <[melissa.stevens@state.mn.us](mailto:melissa.stevens@state.mn.us)>  
**Date:** Mon, Nov 19, 2018 at 2:10 PM  
**Subject:** RE: FW: Pregeneral report due October 29, 2018  
**To:** Joseph Stephenson <[jr.mn.dfl@gmail.com](mailto:jr.mn.dfl@gmail.com)>

Hi Joe,

Can you give Gary Bauer a call? He should be able to assist you with what's going on with the software.

Gary Bauer 651-539-1185

Thanks!

*Melissa M. Stevens*

Compliance Officer

Minnesota Campaign Finance and Public Disclosure Board

658 Cedar Street, Suite 190

St Paul MN 55155  
Tel: 651-539-1188  
Website: [www.cfb.mn.gov](http://www.cfb.mn.gov)

**From:** Joseph Stephenson <[jr.mn.dfl@gmail.com](mailto:jr.mn.dfl@gmail.com)>  
**Sent:** Monday, November 19, 2018 2:08 PM  
**To:** Stevens, Melissa (CFB) <[melissa.stevens@state.mn.us](mailto:melissa.stevens@state.mn.us)>  
**Subject:** Re: FW: Pregeneral report due October 29, 2018

Hi Melissa

I still don't have the option to generate a pre-election report only pre-primary and end of year. The CFR also says that I am not a valid person to generate the report.

On Mon, Nov 19, 2018, 2:01 PM Stevens, Melissa (CFB) <[melissa.stevens@state.mn.us](mailto:melissa.stevens@state.mn.us)> wrote:

Joe,

Have you been able to take a look at this and change the reporting period? We still do not have the Pre-General report.

*Melissa M. Stevens*

Compliance Officer  
Minnesota Campaign Finance and Public Disclosure Board  
658 Cedar Street, Suite 190  
St Paul MN 55155  
Tel: 651-539-1188  
Website: [www.cfb.mn.gov](http://www.cfb.mn.gov)

---

**From:** Stevens, Melissa (CFB)  
**Sent:** Friday, November 09, 2018 10:29 AM  
**To:** 'jr.mn.dfl@gmail.com' <[jr.mn.dfl@gmail.com](mailto:jr.mn.dfl@gmail.com)>  
**Subject:** FW: Pregeneral report due October 29, 2018

Joseph,

We still have not received the pre-general report. Can you check to make sure that you selected the correct reporting period? Should be October Pre-General. The one we received was through 7/23/18.

Let me know as soon as you can.

Thanks!

*Melissa M. Stevens*

Compliance Officer

Minnesota Campaign Finance and Public Disclosure Board

658 Cedar Street, Suite 190

St Paul MN 55155

Tel: 651-539-1188

Website: [www.cfb.mn.gov](http://www.cfb.mn.gov)

---

**From:** Engelhardt, Megan (CFB)  
**Sent:** Tuesday, October 30, 2018 10:58 AM  
**To:** Stevens, Melissa (CFB) <[melissa.stevens@state.mn.us](mailto:melissa.stevens@state.mn.us)>  
**Subject:** FW: Pregeneral report due October 29, 2018

**From:** Joseph Stephenson <[jr.mn.dfl@gmail.com](mailto:jr.mn.dfl@gmail.com)>  
**Sent:** Monday, October 29, 2018 11:09 PM  
**To:** Engelhardt, Megan (CFB) <[megan.engelhardt@state.mn.us](mailto:megan.engelhardt@state.mn.us)>  
**Subject:** Re: Pregeneral report due October 29, 2018

Hi Megan

I have attempted to certify my report, but it says that I am not a valid person to complete certification. I am sorry for doing this but I am including all the reports in this email as the deadline is in an hour. Thank you in advance.

Regards

Joseph Stephenson

On Thu, Oct 25, 2018 at 4:19 PM Engelhardt, Megan (CFB) <[megan.engelhardt@state.mn.us](mailto:megan.engelhardt@state.mn.us)> wrote:

To: Joseph Stephenson, Hausman (Alice) Volunteer Committee Committee  
Re: 2018 – Pre-general Report of Receipts and Expenditures Reminder  
**Report Due – October 29, 2018**

As of the date of this e-mail the Campaign Finance Board has not received your 2018 Pre-general Report of Receipts and Expenditures, which is due October 29, 2018, covering the period January 1 to October 22, 2018. A late filing fee for this report will begin on October 30, 2018, at the rate of \$50 per day to a maximum of \$1,000. If you believe your committee has already filed the report please contact me at the number below. The Campaign Finance Board will be providing technical support this weekend to

committees using the Campaign Finance Reporter (CFR) software. On Saturday, October 27, and Sunday, October 28, staff will be available from 10:00 AM to 4:00 PM to answer questions on using CFR. Call (651) 539-1185 for assistance. The Board has also developed a series of short online videos that demonstrate how to do various tasks with CFR. The videos are available at: <https://cfb.mn.gov/filer-resources/self-help/education-and-tools/online-videos/>

Melissa Stevens  
Campaign Finance and Public Disclosure Board  
651-539-1188

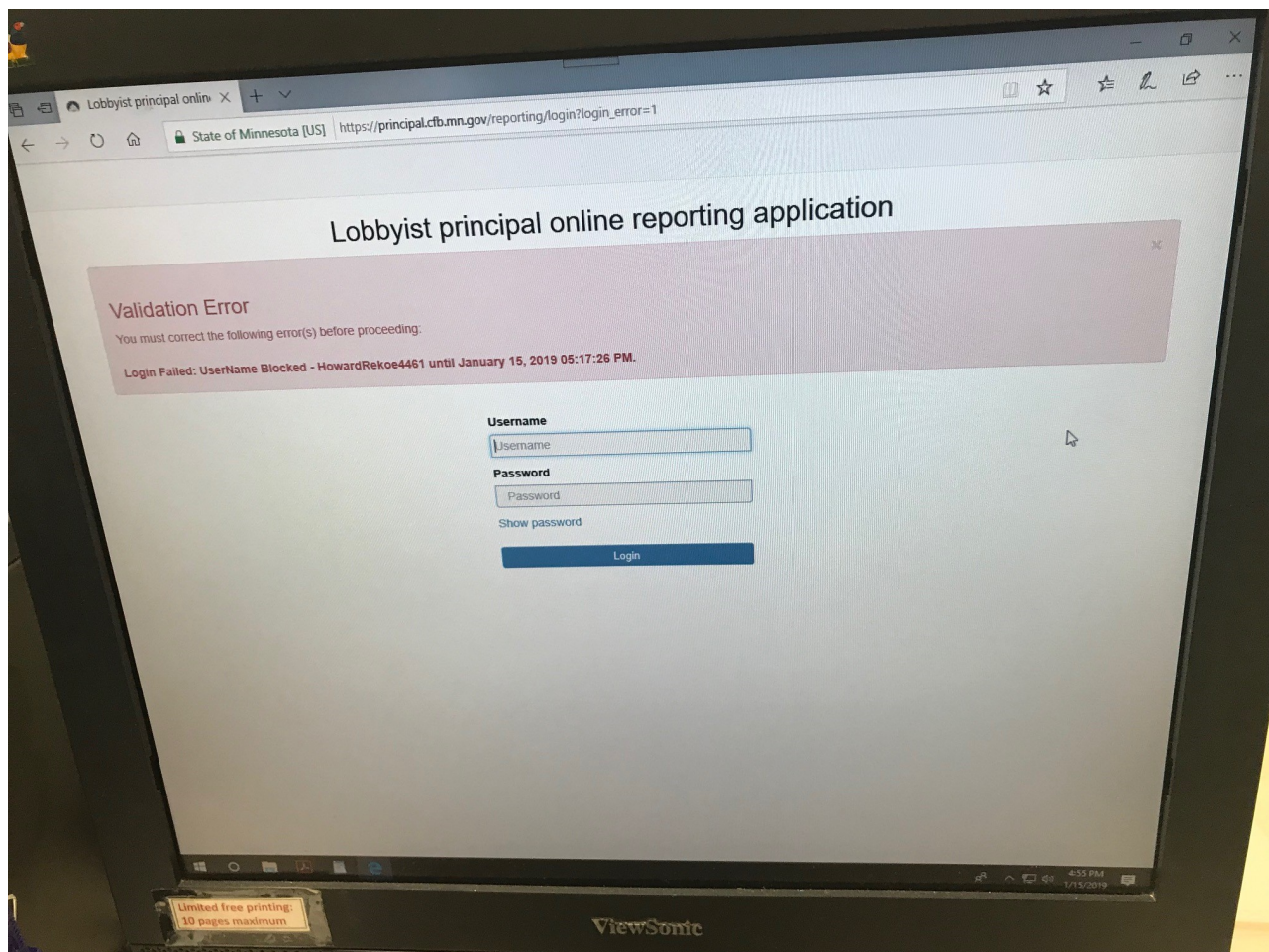
**Lobbyist Rekoe Howard (4461)**  
**SAVE MN/4:20 coalition**

**From:** [Rekoe Howard](#)  
**To:** [Olson, Andrew \(CFB\)](#)  
**Subject:** Re: Late Fee Waiver Request for 2018 Lobbyist Disbursement Reports  
**Date:** Wednesday, January 16, 2019 3:24:59 PM

---

I was having difficulty logging in it froze me out of the system so I was late filing documents. I request a waiver of the fee please.

Sent from my iPhone



January 18, 2019

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

Re: Late Report Waive Request - CFB Registration #20886 52<sup>nd</sup> Senate District RPM

---

I am in receipt of a letter from CFB dated January 11, 2019 regarding a late filing fee notification. The letter is included with this correspondence.

I am communicating with due diligence to respectfully request the \$50 late filing fee waived. Detail follows:

1. The treasurer of record at the time had recently moved out of state. Therefore, a search for a treasurer was on going. Additionally, the treasurer had some medical issues during the 1<sup>st</sup> and 2<sup>nd</sup> quarter of 2018 preventing timely updates.
2. As result of the above scenario and due to transactions inactivity the checking account maintained had been closed by the financial institution and service charges incurred that depleted the account \$0.

I have since assumed treasurer duties for the PPU.

Your consideration to implement the requested waiver is appreciated as I work through this process.

Regards,



Kevin Sethre  
Treasurer -52<sup>nd</sup> Senate District RPM chair CFB Reg# 20886  
3650 73<sup>rd</sup> Street East  
Inver Grove Hts, Minn 55076  
651 552 0256

January 24, 2019

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

Dear Ms. Engelhardt,

I am respectfully writing to request that the late filing fee of \$50.00 incurred for untimely receipt of our October Report of Receipts and Expenditures be waived. We have had a leadership transition at our Chapter, and this is the first such report I have had to complete since joining the organization in March of 2018. The paperwork had been previously sent directly to our group Treasurer, so I was not aware of the report deadline until the last minute. I have since changed the mailing address for our correspondence with the Board, and thus will no longer have this problem in the future. In addition, the due date of October 29<sup>th</sup> was a floating holiday for our Association, and our office was closed. I was unable to send the report the previous week, but sent it right away upon my return to the office on October 30<sup>th</sup>.

I will ensure that our reports are sent in a timely manner in the future, and would appreciate the fee being waived to allow our small amount of dollars for this work to go directly to the candidates. Please contact me if you have any further questions at 651.293.1935 or [kgoodenough.naswmn@socialworkers.org](mailto:kgoodenough.naswmn@socialworkers.org).

In the spirit of social justice,



Karen E. Goodenough, MSW, LGSW  
Executive Director

# 1st Judicial District Republican Committee (40959)

**From:** LE Wolfe <lewolfe58@gmail.com>  
**Sent:** Monday, January 21, 2019 5:04 PM  
**To:** Engelhardt, Megan (CFB) <megan.engelhardt@state.mn.us>  
**Subject:** Re: JD1 Late filing Fee

**Subject:** Request for a waiver on the Late Filing Fee for June, 2018 report.

Dear Megan Engelhardt (CFB),

In the month of May, Kathy Roberts resigned from her position as Treasurer for the First Judicial District Republican Committee towards the end of May, 2018. Kathie moved out of the state before the file was transferred to the next Treasurer. I was considering the position but could not take it on until the end of June and was appointed the early part of July.

As a result, current committee member Diane Anderson and Candace Reyes worked together with Gary to get the file loaded and updated in June and did the best they could to get it processed on time and did well, and their very best to get it filed on time, considering it was their first time involved with the process.

I believe that the processing had been and is currently being processed timely and I would like to ask for a waiver of the late fee.

I appreciate your consideration on this matter and hope to hear from you soon.

Sincerely,

Laurie Wolfe  
Treasurer  
First Judicial District Republican Committee





18 AUG 29 AM 10:56  
CAMPAIGN FINANCE &  
PUBLIC DISCLOSURE BOARD

August 27, 2018

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

Dear Campaign Finance & Public Disclosure Board:

My name is Brittany Mathews and I am the Chair of the MN DFL Senate District 62. I am writing you to ask for you to waive the \$50 per day fee for Senate District 62 filing our July 30<sup>th</sup> report late.

I was made aware of our report not being filed with you last week. As soon as I had this knowledge I called Marcia Waller for help on how I can complete this process as soon as possible. She suggested filing via paper since I do not have an online account currently setup with your site.

I have tried multiple times to make contact with our treasurer, Viswa Challa, but he has been uncooperative in trying to resolve the issue. He does not return any sort of communication, and that is something we are dealing with internally as an Organizing Unit. I was able to get access to our online banking account yesterday so I could complete our Report of Receipts and Expenditures.

Please have the Board review this letter along with our report and consider waiving the fee we have accrued due to our issues with our Treasurer not being responsive or completing his duties as treasurer.

Sincerely,

A handwritten signature in black ink, appearing to read "Brittany Mathews". The signature is fluid and cursive, with a large loop at the end.

Brittany E. Mathews  
Chair of MN DFL Senate District 62

**From:** Alberder Gillespie <gillespie3343@gmail.com>  
**Sent:** Thursday, December 20, 2018 3:43 PM  
**To:** Engelhardt, Megan (CFB) <megan.engelhardt@state.mn.us>  
**Subject:** Waiver request

Megan,

Thank you for speaking with me regarding my campaign finance reports.

As I mentioned, my current campaign treasurer and I currently in process of changing our relationship status. Navigation of this difficult process has impacted the submission of the proper documents to the Campaign Finance board. I was unaware certain documents were not submitted to the campaign finance board. Now that I am aware, I will file the proper forms. Per our discussion, I will amend the treasurer on my committee information. This should ensure that all future form request will come directly to me. I will also obtain a copy of the campaign finance software and submit the no change report after December 31st.

Again thank you for your assistance. I look forward to hearing the decision of the campaign finance board.

Thank you,

Alberder Gillespie

**Engelhardt, Megan (CFB)**

---

**From:** Jon Pieper <jpieper@acegroup.cc>  
**Sent:** Tuesday, January 15, 2019 10:49 AM  
**To:** Engelhardt, Megan (CFB)  
**Subject:** Reg No 20719 Fines

Please consider removal of fines for 28th Senate District DFL,  
Reg. No.20719.

There has been considerable confusion in the transfer of the  
treasurer position. I believe all reports have been filed.

Please contact me if you need further information.

Sincerely,

Jon Pieper

507.438.4635

# Fight For Our Future PAC (41160)

Request for Waiver of Late Fee and Civil Penalties

TO: Campaign Finance and Public Disclosure Board

December 28, 2018

We are writing on behalf of our Political Committee, Fight For Our Future PAC (MNCFB #41160), to request a waiver of some or all late fees associated accrued in the 2017-2018 election cycle. The reports were submitted late due to unofficial inactive status of the committee, as all three board members of the committee had determined that our busy personal schedules prevented us from utilizing the committee in any capacity during the 2018 cycle. As you can see in our reports, currently up to date, we directed no volunteer or political activities in 2018 up to the pre-general report.

As a result of this inactivity, and in recognition that our inattentive management of the blank reports for the committee, our board has made the decision to liquidate the assets of the committee and terminate the filing with the board. These actions have already begun and will continue following the results of this waiver request in the month of January 2019 regardless of the result of the request. We have already liquidated most of the assets of the committee, as will be reported on the year end 2018 report at our time of termination. After the conclusion of this waiver request, the committee will pay any remaining fees to the board, liquidate the remaining assets, file remaining required reports by the end of January, and terminate. In other words, the committee will no longer participate in any political activities and so any full or partial reduction in late fees resulting from this waiver process will not result in benefit to political activities of the committee. Again, we are undertaking this termination because we recognize that we have failed to keep up with the reporting efforts for the unofficially inactive committee and would like to divest from this requirement through termination.

Sincerely,

Adam Seidel  
Chair, Fight For Our Future PAC

Kip Christianson  
Treasurer, Fight For Our Future PAC

December 28, 2018

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

10 JAN -9 AM 11:29  
CAMPAIGN FINANCE &  
PUBLIC DISCLOSURE BOARD

Attention: Megan Engelhardt, Assistant Executive Director

RE: Report of Receipts and Expenditures due on October 29, 2018  
Reg. No: 20332

Dear Megan:

When I agreed to be treasurer for the 7<sup>th</sup> Senatorial District of Independent Republicans of Minnesota earlier this year I did not even know the Campaign Finance Board existed.

Gary Bergquist is the over-worked chair of our house district 7B.

I then agreed to run for the Minnesota House representing our district. I was a first time candidate.

Gary and I attended the training session in Duluth. I also attended the treasurer training in St. Paul.

We are a small group of volunteers. In addition to being chair of our district, Gary was also my campaign chair and treasurer. He also worked on signs for my campaign.

Even though I attended the training sessions, I do not feel qualified to prepare the necessary reports.

Gary filed the reports both for our house district and for my campaign. It was oversight to not file the October 29 report for our house district. I was busy working on my campaign.

I hope you will waive the late filing fee. If we had been notified earlier that we were late, we would have filed earlier. An \$800 fine will wipe us out.

Sincerely,

Caroline Burley  
629 North Central Avenue  
Duluth, MN 55807-1302

Home phone: 218-624-5597  
[Burley.caroline@gmail.com](mailto:Burley.caroline@gmail.com)

Cc: Gary Bergquist

Freeborn County DFL  
Kelli Tiegs  
1313 Margaretha Avenue  
Albert Lea, MN 56007  
Kelli.tiegs@co.freeborn.mn.us

1/24/2019

Minnesota State Campaign Finance and Public Disclosure Board  
190 Centennial Building  
658 Cedar Street  
St. Paul, MN 55155-1603

RE: Waiver Request of Late Filing Fee for the Report of Receipts & Expenditures due 10/29/18

Dear Board Members:

I am submitting this formal request to ask that you approve a waiver to the Freeborn County DFL for the \$50.00 late filing fee assessed for filing the Report of Receipts & Expenditures due 10/29/18 a day late.

At the time of the filing, I represented the Freeborn County DFL as treasurer, & I take full responsibility for this report being late.

I took over the position of treasurer late in 2017. At that time, the chair had been handling her role as well as the treasurer's role because the prior treasurer had been found guilty of fraud & theft against the Freeborn County DFL. It took some time for me to clean up the books so that we had an accurate accounting of receipts & disbursements. I had no guidance in how to use the software to report our information to the Minnesota Campaign Finance & Public Disclosure Board; but Vince Lynch, the Treasurer of the Mower County DFL, extended his help in electronically filing the reports. The Chair connected me with Vince, as he had helped her electronically file the annual report for 2016. It is my understanding that no one from our chapter had previously filed reports electronically. Vince helped me with the electronic filing of all reports in 2018.

It was my intention to have learned how to file the report due on 10/29/18 by myself. After the previous report had been filed, I had discussed with Vince that I would like to meet with him to have him teach me how to enter things in the software. That did not happen for multiple reasons, one being that I had major surgery in May 2018 and was off work for quite some time. I knew Vince was very busy handling the reports for Mower County DFL & Terry Gjersvik's campaign, so I tried my best to navigate the software. Though there was very little information to report by 10/29/18, I

Board Members

1/24/2019

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was never able to figure out how to do it. This report was not late for any reason other than me not understanding how to use the software. Vince did help input the information in the software the following day.

I have since decided that, currently, I do not have the time or attention that the role of treasurer requires. The former secretary & I have switched roles. Ehren Qual has been voted in as the new treasurer & I have been voted in as the new secretary. Ehren & I worked together in December & January so that he understood the records I kept for 2018. He has already inputted & submitted our annual report. Ehren has a background in accounting and was quickly able to learn to navigate the software. I feel confident that he will be more than capable of filing future reports on time.

Thank you for your time & attention.

Respectfully submitted,

  
Kelli Tiegs

## Houston County RPM (20568)

**From:** David Pieper <[pieperfarm@msn.com](mailto:pieperfarm@msn.com)>  
**Sent:** Monday, January 14, 2019 2:32 PM  
**To:** Engelhardt, Megan (CFB) <[megan.engelhardt@state.mn.us](mailto:megan.engelhardt@state.mn.us)>  
**Subject:** \$200 fine Houston County

I would like to request the late filing fee be reduced or eliminated. I have sought training every year I have been treasurer, and have not been able to secure any training on the reporting software. I did attend one training seminar to learn the software, but the software was not part of the training. I have not been able to enter information into the database correctly. In some cases it won't take my entries, in other cases I am not sure how to enter the information.

I am resigning as of our county convention in February. I will work with the next treasurer to bring things up to date.

**I hope for two things:**

First that you would eliminate the late filing fee

Second that you would provide our next treasurer with training on how to use the software (Might I suggest a conference call a couple weeks before the next filing due date).

Thanks for your consideration into this matter.

David P. Pieper, Houston County Treasurer  
Mutual of Omaha  
137 East Main St.  
Caledonia, MN 55921  
(507)724-3863-Office  
(507)272-4864-Cell  
(507)724-3276-Home  
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We work with business owners, many multi-generational to plan for their continuation.



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

**ACTIVE FILES**

Candidate/Treasurer/ Lobbyist	Committee/Agency	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Served by Mail	Default Hearing Date	Date Judgment Entered	Case Status
Chilah Brown Michele Berger	Brown (Chilah) for Senate	Unfiled 2016 Year- End Report of Receipts and Expenditures  Unpaid late filing fee on 10/31/16 Pre- General Election Report	\$1,000 LF \$1,000 CP  \$50 LF	3/6/18	8/10/18			
Brenden Ellingboe	Ellingboe (Brenden) for House	Unfiled 2015 Year- End Report of Receipts and Expenditures	\$1,000 LF \$1,000 CP	11/29/16	5/26/17			Placed on hold by Board
Richard Hamer		2017 Annual Statement of Economic Interest	\$100 LF \$1,000 CP	1/28/19				
Katy Humphrey, Kelli Latuska	Duluth DFL	Unfiled 2016 Year- End Report of Receipts and Expenditures	\$1,000 LF \$1,000 CP	3/6/18	8/10/18			
Bryan Klabunde	Klabunde for MN House	Unfiled 2017 Year- End Report of Receipts and Expenditures	\$1,000 LF \$1,000 CP	9/4/18	11/2/18			Placed on hold by Board

