

Minnesota

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

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Wednesday, June 1, 2022

10:30 A.M.

Blazing Star Room  
Centennial Office Building

## **REGULAR SESSION AGENDA**

1. **Approval of minutes**
  - A. May 4, 2022
  - B. May 9, 2022
2. **Chair's report**
  - A. 2022 meeting schedule
3. **Executive director report**
4. **Enforcement report**
5. **Memo regarding FEC v. Cruz**
6. **Legal report**
7. **Other business**

## **EXECUTIVE SESSION**

Immediately following regular session



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

.....  
**May 4, 2022**  
**St Croix Room**  
**Centennial Office Building**  
.....

**MINUTES**

The meeting was called to order by Chair Rashid.

Members present: Asp, Flynn (by telephone), Leppik, Rashid, Soule (by telephone), Swanson

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

**MINUTES** (April 6, 2022)

After discussion, the following motion was made:

Member Leppik's motion: To approve the April 6, 2022, minutes as drafted.

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

**CHAIR'S REPORT**

**A. 2022 meeting schedule**

The next Board meeting is scheduled for 10:30 a.m. on Wednesday, June 1, 2022.

**EXECUTIVE DIRECTOR'S REPORT**

Mr. Sigurdson presented members with a memorandum that is attached to and made a part of these minutes. Mr. Sigurdson told members that 150 new state-level candidates had filed with the Board over the past 90 days and staff are conducting compliance trainings via Webex. Mr. Sigurdson said that holding compliance trainings via Webex has proved popular. Mr. Sigurdson stated that redistricting has resulted in many registration amendments, terminations, and new registrations. Mr. Sigurdson told members that staff is preparing candidate filing packets which provide state-level candidates with information about contribution and spending limits, registration with the Board, the public subsidy program, and reporting deadlines. Mr. Sigurdson stated that conference committees will soon discuss the Senate and House omnibus bills that concern Chapter 10A. Mr. Sigurdson said that interviews are being scheduled to fill the vacant legal/management analyst position.

**ENFORCEMENT REPORT**

**A. Waiver Requests**

Entity	Late Fee/ Civil Penalty	Report Due	Factors and Recommended Action	Board Member's Motion	Motion	Vote on Motion
1. Maroon & Gold Political Action Committee (41233)	\$75 LFF	2022 1st Quarter	Report due 4/14/2022 was filed 4/19/2022. Treasurer mistakenly filed another copy of the committee's 2021 year-end report via the CFR software prior to the due date, rather than a 2022 1st quarter report. The treasurer had not initialized the 2022 calendar year within the software and did not realize the wrong report was filed until after the due date. The report is a no-change statement and lists a cash balance of \$880. RECOMMENDED ACTION: Waive	Swanson	Approve the staff recommendation for requests 1 through 2	A roll call vote was taken. All members voted in the affirmative.
2. 27th Senate District DFL (20324)	\$350 LFF	2021 Year-End	Treasurer mistakenly filed another copy of the party unit's 2020 year-end report via the CFR software on 1/19/2022, rather than a 2021 year-end report, which was due on 1/31/2022. Treasurer realized the error in mid-February but she needed to file an amended 2020 year-end report to correct the ending cash balance before filing the 2021 report, so the 2021 year-end report was not filed until 2/18/2022. The report is a no-change statement and lists a cash balance of \$544. RECOMMENDED ACTION: Waive	Swanson	Approve the staff recommendation for requests 1 through 2	A roll call vote was taken. All members voted in the affirmative.

<p>3. TwinWest Chamber of Commerce PAC (70013)</p>			<p>No-change statements due 1/31/2022 were filed three days late resulting in LFFs of \$75 for each committee. Old treasurer recently ceased working for the organization that operates each committee and that organization's staff believed the reports had been filed. New treasurer logged into the CFR software the day the reports were due and saw a message stating the reports had already been filed. Board staff believe that the old treasurer never initialized the 2021 calendar year and the new treasurer saw that message because she had mistakenly logged into the 2020 calendar year. After realizing the reports had not been filed, the new treasurer promptly filed no-change statements, amended the committees' registration information, and stated that they intend to terminate each committee soon. The committees reported a combined cash balance of \$3,579 as of the end of 2021. RECOMMENDED ACTION: Waive</p>	<p>Swanson</p>	<p>Approve the staff recommendation for requests 3 through 4</p>	<p>A roll call vote was taken. Five members voted in the affirmative, Asp abstained.</p>
<p>4. TwinWest Business Advocacy Fund (41117)</p>	<p>\$150 LFFs</p>	<p>2021 Year-End</p>	<p>No-change statements due 1/31/2022 were filed three days late resulting in LFFs of \$75 for each committee. Old treasurer recently ceased working for the organization that operates each committee and that organization's staff believed the reports had been filed. New treasurer logged into the CFR software the day the reports were due and saw a message stating the reports had already been filed. Board staff believe that the old treasurer never initialized the 2021 calendar year and the new treasurer saw that message because she had mistakenly logged into the 2020 calendar year. After realizing the reports had not been filed, the new treasurer promptly filed no-change statements, amended the committees' registration information, and stated that they intend to terminate each committee soon. The committees reported a combined cash balance of \$3,579 as of the end of 2021. RECOMMENDED ACTION: Waive</p>	<p>Swanson</p>	<p>Approve the staff recommendation for requests 3 through 4</p>	<p>A roll call vote was taken. Five members voted in the affirmative, Asp abstained.</p>
<p>5. Kristen Eide-Tollefson (Environmental Quality Board)</p>	<p>\$45 LFF \$1,000 CP</p>	<p>2021 Annual EIS</p>	<p>EIS due 1/31/2022 was filed 3/19/2022. Official had difficulty accessing the online system used to file her EIS and due to changes in her investments she had difficulty ascertaining what information she needed to complete her EIS. Official is leaving the EQB and has paid \$55 of the late filing fee, which is the amount that had accrued as of the date of a letter mailed by Board staff in early March, leaving a balance of \$1,045. RECOMMENDED ACTION: Waive CP leaving balance of \$45</p>	<p>Soule</p>	<p>Approve the staff recommendation for requests 5 through 6</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>

<p>6. Jonathan Weinhagen (3036)</p>	<p>\$850 LFFs</p>	<p>1st 2020 Lobbyist (x2)          2nd 2021 Lobbyist (x2)</p>	<p>Reports due for two principals on 6/15/2020 were filed 7/8/2020, resulting in LFFs of \$400 each. Reports due for two principals on 1/18/2022 were filed one day late, resulting in LFFs of \$25 each. Lobbyist states that he did not receive mailed reminders concerning the reports due 6/15/2020 due to the pandemic. Lobbyist also did not receive email reminders because his email address changed in 2017 and he did not amend his lobbyist registration to provide the new email address. The reports due on 6/15/2020 disclosed no disbursements. Lobbyist had difficulty accessing the online reporting system on 1/18/2022, causing the reports due that day to be filed one day late. RECOMMENDED ACTION: Waive LFFs for 2021 reports and reduce LFFs for 2020 reports to \$100 each</p>	<p>Soule</p>	<p>Approve the staff recommendation for requests 5 through 6</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
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<p>7. Hausman (Alice) Volunteer Committee (12313)</p>	<p>\$975 LFF</p>	<p>2021 Year-End</p>	<p>Report due 1/31/2022 was filed 3/28/2022. Treasurer experienced a death in his immediate family less than a week before the report was due and both the treasurer and candidate contacted Board staff seeking an extension. Candidate states that she spoke with the treasurer and she initially believed the report had been filed. Candidate eventually asked someone else to prepare the report. The committee reported a cash balance of \$15,150 as of the end of 2021 and the candidate is not seeking re-election. Board staff is not making a recommendation. While the Board has typically waived a late filing fee when the treasurer has experienced a death in their immediate family, in this instance it took nearly two months for the committee to file the report despite outreach from Board staff. RECOMMENDED ACTION: No recommendation</p>	<p>Swanson</p>	<p>Reduce LFF to \$500</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
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<p>8. Joe Garofalo for House (18517)</p>	<p>\$1,000 LFF \$1,000 CP</p>	<p>2021 Year-End</p>	<p>Treasurer mistakenly filed another copy of the committee's 2020 year-end report via the CFR software on the due date, 1/31/2022, rather than a 2021 year-end report. Board staff attempted to call the treasurer 2/11/2022 regarding the missing report. A notice was mailed to the treasurer, who is the candidate's spouse, but they were out of state and did not receive the notice until the middle or end of March. Treasurer then worked with Board staff and filed a 2021 year-end no-change statement on 3/31/2022. The committee reported a cash balance of \$4,150. Board staff is not making a recommendation. While the Board has typically waived a late filing fee the first time that a committee has mistakenly filed the wrong report, in this instance it took two months for the committee to file the correct report despite attempts by Board staff to contact the treasurer.  <b>RECOMMENDED ACTION:</b> No recommendation</p>	<p>Swanson</p>	<p>Waive CP, reduce LFF to \$500</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
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9. Ms. Breitinger appeared by telephone, explained her request, and answered questions from members prior to a motion being made on the request listed below.

<p>9. Jennifer Breitinger (9098)</p>	<p>\$150 LFF</p>	<p>2nd 2021 Lobbyist</p>	<p>Report due 1/18/2022 was filed 1/26/2022. Lobbyist filed reports for eight other principals by the due date but mistakenly did not file this report on time. The report disclosed no disbursements. There was no motion on this request at the April 2022 Board meeting and the lobbyist is seeking reconsideration.  <b>RECOMMENDED ACTION:</b> None</p>	<p>Flynn</p>	<p>Waive</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
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**B. Informational Items**

**1. Payment of civil penalty for prohibited contribution during legislative session**

Minnesotans for Julie Blaha, \$250  
Denise Specht, \$125

**2. Payment of late filing fee for 2022 1<sup>st</sup> quarter report of receipts and expenditures**

OAK PAC, \$100  
Legal Marijuana Now Party, \$25

**3. Payment of late filing fee for 2021 year-end report of receipts and expenditures**

60th Senate District RPM, \$900  
Somali American Women Political Action Committee, \$550  
15A House District RPM, \$225  
1st Congressional District IPMN, \$225  
Nobles County DFL, \$50  
Kittson County DFL, \$25  
5th Congressional District IPMN, \$25  
Citizens for Diane Napper, \$25

**4. Payment of late filing fee for 2021 Annual EIS**

Bruce Lawrence, \$35  
Kristen Eide-Tollefson, \$55 (partial payment)

**5. Forwarded anonymous contributions**

Sullivan (Thomas) For The House, \$277.96  
Sammy T McCarty 4 Minnesota, \$200

**PRIMA FACIE DETERMINATION**

Mr. Sigurdson presented members with a memorandum regarding this matter that is attached to and made a part of these minutes. Mr. Sigurdson told members that a complaint filed against the Mort (Erik Mortensen) for House committee was dismissed because it concerned an issue that is outside the jurisdiction of the Board.

**LEGAL COUNSEL'S REPORT**

Mr. Hartshorn presented members with a legal report that is attached to and made a part of these minutes. Mr. Hartshorn told members that a default judgment hearing regarding Ms. Rhoades was held and Ms. Rhoades was given more time to file an answer to the complaint. Mr. Hartshorn explained that if an answer is filed he intends to file a motion for summary judgment.

**EXECUTIVE SESSION**

Chair Rashid recessed the regular session of the meeting and called to order the executive session. Upon recess of the executive session, the chair had nothing to report into regular session.

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

Respectfully submitted,

Jeff Sigurdson  
Executive Director

Attachments:  
Executive Director's Report – Board Operations  
Memorandum regarding prima facie determination finding no violation  
Legal report

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

.....  
**May 9, 2022**  
**Blazing Star Room**  
**Centennial Office Building**  
.....

**MINUTES**

The meeting was called to order by Chair Rashid.

Members present: Asp (by Webex), Flynn (by Webex), Leppik (by Webex), Rashid, Soule (by Webex), Swanson (joined by Webex during executive session)

Others present: Sigurdson, Engelhardt, Olson, staff; Hartshorn (by Webex), counsel

**ADOPTION OF THE AGENDA**

The following motion was made:

Member Leppik's motion: To adopt the agenda.

Vote on motion: A roll call vote was taken. Five members voted in the affirmative, Swanson was absent.

**EXECUTIVE SESSION**

Chair Rashid recessed the regular session of the meeting and called to order the executive session. Upon recess of the executive session, the chair had nothing to report into regular session.

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

Respectfully submitted,

Jeff Sigurdson  
Executive Director





# MINNESOTA

## CAMPAIGN FINANCE BOARD

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### **Board Meeting Dates for Calendar Year 2022**

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

#### **2022**

Wednesday, July 6

Wednesday, August 3

Wednesday, September 7

Wednesday, October 5

Wednesday, November 2

Wednesday, December 7





# MINNESOTA CAMPAIGN FINANCE BOARD

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**Date:** May 25, 2022

**To:** Board Members

**From:** Jeff Sigurdson, Executive Director

**Telephone:** 651-539-1189

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

## **Board Operations - Reporting Periods**

Campaign Finance Program: Notices of the need to file the second report of receipts and expenditures were sent to 486 constitutional office candidates, political committees, political funds, and political party state central committees and legislative caucuses. The second report covers the period from January 1 to May 31, 2022. The report is due on June 14, 2022. Legislative candidates and local party units do not file this report.

Lobbying Program: The lobbyist disbursement report covering the period of January 1 through May 31, 2022, is due on June 15, 2022. Disbursement reports are expected from 779 lobbyists, many of whom report for multiple principals.

Economic Interest Statement Program: The candidate filing period for 2022 opened on May 17, and closes on May 31, 2022. Candidates who file for state level office are provided a filing packet from the Board with information and forms needed to register a committee, sign the public subsidy agreement, and file an Economic Interest Statement (EIS). Staff provided over 1,300 packets to filing officers throughout the state. An EIS statement must be filed by all constitutional and legislative candidates, both incumbents and challengers, within 14 days of filing an affidavit of candidacy. Information disclosed within EIS statements filed by candidates is available for review on the Board's website.

## **Update on Legislation**

The state government omnibus bill that contains modifications to Chapter 10A is HF 4293. In addition to serving as the bill for all issues under the jurisdiction of the state government and elections committees, the bill also became the vehicle for all issues related to transportation and state pensions. A conference committee did not resolve all differences between the Senate and House positions before the end of session.

If there is a special session, and assuming a final agreement can be reached, HF 4293 would impact Chapter 10A in two areas. It would prohibit the type of meeting location for legislators and lobbyists described in Advisory Opinion 454; and it would lower the threshold amount of financial activity that requires registration of a candidate committee, party unit, political committee, or political fund, from \$750 to \$200.







# MINNESOTA CAMPAIGN FINANCE BOARD

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**Date:** May 25, 2022  
**To:** Board members  
Counsel Hartshorn  
**From:** Andrew Olson, Legal/Management Analyst  
**Subject:** Enforcement report for consideration at the June 1, 2022 Board meeting

## **A. Consent Items**

### **1. Administrative termination of lobbyist Cort Holten (2961)**

Mr. Holten died on April 8, 2022. Board staff terminated his lobbyist registrations on behalf of 10 principals as of that date. Another lobbyist has filed registration forms making her the designated lobbyist for the principals for which Mr. Holten was previously the designated lobbyist and making her the reporting lobbyist for Mr. Holten's disbursements during early 2022.

### **2. Withdrawal of lobbyist registration of Jeremy Schroeder (2926)**

On May 12, 2022, Mr. Schroeder registered as a lobbyist for 635 Van Buren LLC. After discussing his registration with Board staff Mr. Schroeder realized that he will not reach the monetary threshold to be defined as a lobbyist in 2022 and he has requested that his lobbyist registration be withdrawn.

## **B. Discussion Items**

### **1. Request for retroactive termination of lobbyists Ani Backa (3085) and Nancy Ryan (4646)**

Rick Evans, the designated lobbyist for Xcel Energy Services, Inc., has requested the retroactive administrative termination of Ani Backa and Nancy Ryan as lobbyists for that principal. Ms. Backa ceased being employed by the principal in 2017. Ms. Ryan was employed by a contractor and has not provided any services to the principal since 2020. The principal attempted to contact each lobbyist to ask them to file a termination statement but neither has done so. Mr. Evans has requested that Ms. Backa's lobbyist registration be terminated effective January 1, 2018, and that Ms. Ryan's lobbyist registration be terminated effective January 1, 2021. There are no outstanding disbursement reports.

### C. Waiver Requests

#	Committee/ Entity	Late Fee/ Civil Penalty	Report Due	Factors	Prior Waivers	Recommended Action
1	Howe (John) Volunteer Committee (17726)	\$25 LFF	2022 1st Quarter	Report due 4/14/2022 was filed one day late. Candidate was out of town attending to a seriously ill family member the day the report was due and was unable to file the report until the following day. The report was a no-change statement listing a cash balance of \$17,061.	No	Waive
2	Automotive Service Political Action Committee (30699)	\$50 LFF	2022 1st Quarter	Report due 4/14/2022 was filed 4/18/2022. Treasurer completed the report on time but the committee's office manager had a family medical emergency and was unable to scan and email the report until after the due date.	No	Waive
3	Tarryl Clark (Stearns County Commissioner)	\$5 LFF	2021 Annual EIS	EIS due 1/31/2022 was filed 2/15/2022, the day the late filing fee began to accrue. Official was unsure of how to complete a portion of her EIS but spoke with Board staff and thought she had filed her EIS a few days before the late fee began to accrue. It appears that she saved her information but did not click the submit button.	No	Waive
4	MN Assn of Wheat Growers (3607)	\$25 LFF	2021 Lobbyist Principal	Report due 3/15/2022 was filed one day late. Principal's CFO, who used to complete the report each year, retired, and the contractor that is handling the principal's finances wasn't contacted by the principal until the afternoon the report was due. Principal's registration information has now been updated to list the contractor as the principal's contact. Principal has been registered with the Board since 1995 and has no recent history of late filings.	No	Waive
5	NAPAC-MN (30699)	\$450 LFF	2022 1st Quarter	Report due 4/14/2022 was filed 5/10/2022. Treasurer was out of the country at the time the report came due and did not return until early May. The report is a no-change statement and lists a cash balance of \$211. Staff's recommendation to waive the LFF is based on the fact that the committee did not accept contributions or make expenditures in excess of \$750 prior to the end of the reporting period and therefore was not required to register with the Board.	No	Waive

6	Revol Greens MN, LLC (7758)	\$525 LFF	2021 Lobbyist Principal	Report due 3/15/2022 was filed 4/13/2022. Principal's contact person was no longer employed by the principal when notices regarding the report were sent. Principal reported no spending on lobbying and principal's sole lobbyist reported that no disbursements were made and no compensation was received in excess of \$500. Principal's sole lobbyist was terminated as of the end of 2021 so the principal will not need to file reports in the future unless a new lobbyist is registered on its behalf.	No	Reduce to \$200
7	Marti (Michael) for Minnesota (18693)	\$625 LFF	2022 1st Quarter	Report due 4/14/2022 was filed 5/19/2022. Candidate suspended his campaign in Dec. 2021 and informed Board staff that a termination report would soon be filed. Treasurer attempted to enter the committee's only 2022 disbursement within the CFR software but received an error message regarding the date of the transaction because he had not initialized the 2022 calendar year within the software. Treasurer misinterpreted that message to mean that he needed to wait and later file a 2022 year-end report. Board staff had difficulty contacting the committee because the only email address provided was not being monitored by the committee. The report filed 5/19/2022 is a termination report.	No	Reduce to \$200
8	MN350 Action Fund (30699)	\$1,000 LFF	2021 Year-End	Report due 1/31/2022 was filed 5/2/2022. In late 2021 and early 2022, Board staff worked with the fund to amend its 2020 year-end report. The fund then completed a 2021 year-end report but forgot to file it due to an internal miscommunication within the supporting association's staff. Because this is a political fund, Board staff did not know that a 2021 year-end report needed to be filed until contacting the fund regarding a cash balance discrepancy in late April of 2022. The fund then promptly filed the missing report, which resolved the balance discrepancy. The fund reported a cash balance of \$8,073 as of 3/31/2022.	No	Reduce to \$500

#### D. Informational Items

##### 1. Payment of late filing fee for 2022 1<sup>st</sup> quarter report of receipts and expenditures

Minnesota Organization of Republican Veterans (MORVets), \$25  
 Pediatric Home Service PAC, \$25  
 Howe (John) Volunteer Committee, \$25  
 NASW-MN PACE, \$25  
 Minneapolis Downtown Council PAC, \$25

**2. Payment of late filing fee for 2021 year-end report of receipts and expenditures**

LeSueur County DFL, \$625  
Hausman (Alice) Volunteer Committee, \$500  
Joe Garofalo for House, \$500  
4th Congressional District GPM, \$150  
Goff Public PAC, \$25

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

Minneapolis Downtown Council PAC, \$25

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

Goff Public PAC, \$25

**5. Payment of late filing fee for lobbyist disbursement report due 1/18/2022**

F. Clayton Tyler, \$100  
David Skilbred, \$25

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

Laili Fatehi, \$500  
Jonathan Weinhagen, \$200 (\$100 x 2)

**7. Payment of late filing fee for lobbyist principal report due 3/15/2022**

Midwest Agri-Commodities, \$350  
MN Association of Criminal Defense Lawyers, \$275  
Andersen Corp, \$250  
Christopher Abdul-Haqq, \$225  
Hayward Solar LLC, \$225  
IBEW Local 160, \$75  
Northeastern Minnesotans for Wilderness, \$50  
CEAP (Community Emergency Assistance Program), \$25  
OutFront MN, \$25

**8. Payment of late filing fee for 2021 Annual EIS**

Kristen Eide-Tollefson, \$55 (final partial payment)



Summit Government Affairs  
Consulting, LLC

161 St. Anthony Avenue  
Suite 820  
St. Paul, MN 55103  
T: 651.291.1900  
F: 651.291.0846

MEMORANDUM

**TO:** Erika Ross, Campaign Finance & Public Disclosure Board

**FROM:** Denise J. Gill and Nancy L. Silesky

**DATE:** May 11, 2022

**RE:** Cort Holten Lobbyist Registration Terminations (2961)

As we talked about on the phone last week, Cort Holten passed away on April 8, 2022. Please terminate Cort Holten's lobbyist registrations as of April 8, 2022, for the following associations:

[Cigar Assn of America, Inc.](#)  
[Eli Lilly & Co](#)  
[Horsemen's Benevolent & Protective Assn, Inc.](#)  
[MN Electronic Security & Technology Assn](#)  
[MN Inter-County Assn](#)  
[MN Police & Peace Officers Assn](#)  
[MN Propane Gas Assn](#)  
[Otsuka America Pharmaceutical, Inc.](#)  
[Verizon Wireless](#)  
[Vertex Pharmaceuticals, Inc.](#)

Attached are the amended lobbyist registrations for Nancy Silesky so that she will be reporting for Cort this period. After we send in the reports in June, I will send you an email reminding you to remove Cort so that Nancy will no longer be reporting for him going forward.

Please let us know if you need anything else.

Thanks,  
Denise  
651-343-6230

**From:** jeremy schroeder <schroeder.jeremy@gmail.com>

**Sent:** Friday, May 13, 2022 11:41 AM

**To:** Ross, Erika (CFB) <Erika.T.Ross@state.mn.us>

**Subject:** Re: Lobbyist Registration

Hi Erika,

Thanks again for your help and patience. I will not meet the \$3000 threshold in paid work by the end of the year for this entity, could you please withdraw my lobbyist registration?

Kind regards,

Jeremy Schroeder

TO: Campaign Finance Board

FROM: Rick Evans, Xcel Energy

DATE: May 24, 2022

RE: Lobbyist Terminations for Ani Backa and Nancy Ryan

With this memorandum I am filing Lobbyist Termination forms for two lobbyists who are currently registered as Lobbyists for Xcel Energy Services, Inc.

Ani Backa was an employee of Xcel Energy working as a Community Relations Manager, with responsibility for our relationship with the City of Minneapolis. Ms. Backa left employment at Xcel Energy in 2017. We have made numerous requests to Ms. Backa to file a lobbyist termination form with the Board. We have been unable to reach her for the last year.

Ms. Backa is no longer a lobbyist for Xcel Energy and we respectfully request that her registration be terminated.

I was the designated lobbyist for Xcel Energy and all lobbyist disbursements were previously reported by me during the entirety of Ms. Backa's employment.

Nancy Ryan was/is an employee of Energy and Environment Economics, Inc. located in San Francisco, CA. She was retained as a consultant and possible expert witness for Xcel Energy in the rate case filed with the Public Utilities Commission in November 2019. That rate case was suspended in 2020. We have made numerous requests to Ms. Ryan to file a lobbyist termination form, but have not had any response from her.

Xcel Energy has not retained Ms. Ryan for any services since 2020 and we respectfully request that her registration be terminated.

I was the designated lobbyist for Xcel Energy and previously reported all the disbursements made for Ms. Ryan during the entirety of her contract.

Please let me know if you need any further information in order to terminate the registrations of these individuals.



# 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>Nancy Ryan</b>		Registration number <b>4646</b>
Address last known: 44 Montgomery Street, Suite 1500		
City, state, zip <b>San Francisco, CA 94104</b>	Telephone (Daytime) <b>unknown</b>	
Name of association, individual, political subdivision or public higher education system represented <b>Xcel Energy Services, Inc.</b>		Registration number <b>660</b>

Date of termination: 1-1-2020

### Certification

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

Rick Evans  
Signature of lobbyist

5-24-22  
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.





# 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>Ani Backa</b>		Registration number <b>3085</b>
Address <b>last known: 414 Nicollet Mall, 7th Floor</b>		
City, state, zip <b>Minneapolis, MN 55104</b>	Telephone (Daytime) <b>unknown</b>	
Name of association, individual, political subdivision or public higher education system represented <b>Xcel Energy Services, Inc.</b>		Registration number <b>660</b>

Date of termination: 1-1-2018

### Certification

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

  
Signature of lobbyist

5-24-22  
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.

**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:    Rick Evans Lobbyist registration #:    500

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.

MN Campaign Finance and Public Disclosure Board  
658 Cedar Street.  
St. Paul, MN 55155

May 6, 2022

Dear Board:

In response to your notification, enclosed is a \$25 check for the late fee assessed my campaign because I filed my report several hours late. I am requesting that the board waive the late fee (I understand this letter will become part of the record.)

During the reporting period my campaign had a no change status. On April 14, I was out of state and tending to my dying mother (we buried her yesterday) and because I didn't have my laptop with me, I was unable to file my report until the next day, several hours after the deadline. I did leave a message stating that I my campaign had no change in the reporting period and requesting a no change be filed.

I believe the real issue with any campaign finance violation is whether a particular campaign has gained a competitive advantage by the violation. The Minnesota Campaign Finance Board lacks any real powers to ensure candidates follow the law. It is my belief that Minnesota political organizations care little about the civil and financial implications when they can cheat and keep the seat.

I think back to 2012, when I lost my state senate seat to a candidate who committed multiple violations of Minnesota campaign law, most egregiously the laws against coordination with other campaigns. You may recall when 13 DFL senate campaigns violated the law, yet 11 of those campaigns won their races. Months after the violations occurred – and well after the law-breaking candidates were seated as state Senators – the board issued a \$100,000.00 fine to the DFL Senate campaign committee. At less than \$10K per seat, quite the bargain considering the illegality produced a DFL majority in the Minnesota Senate. Interesting note here is my opponent was the highest dollar violator and I did not coordinate with the GOP Senate campaign committee which sent four district wide DWI hit pieces on my opponent which I was blame for, yet I could not even contact them to get them to stop sending without violating the law. Hence the very thing that cost me the election by obeying the law, he violated and won the election. Then he never faced any consequence from the violation, enjoying the fruits of his illegal campaign activities. Then as an "in-your-face" to the voters, GOP and CFB, since the DFL had won both majorities that year, they simply changed the laws so what they did was no longer considered illegal.

In 2018 my Secretary of State campaign earned over 1.1 million votes (the most votes of any GOP campaign without a campaign violation.) In that same year, some campaigns overspent and were compelled to pay the amount overspent as a fine to the CFB. Again, I ask where is the penalty in that had they won the election? They were willing to spend the money. We need structural change with the powers of the CFB. When a campaign cheats, gains a competitive advantage, and wins regardless of the margin of victory, they should not be an office holder until a special election is held. Minnesotans deserve fair elections; **candidates should not be able to cheat and keep their seat!**

Sincerely,

  
John Howe



1970 Oakcrest Avenue, Suite 102  
Roseville, MN 55113  
612.623.1110  
aasp@aaspmn.org  
[www.aaspmn.org](http://www.aaspmn.org)

May 2, 2022

MN CAMPAIGN FINANCE BD  
22 MAY 9 AM 11:01

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

Dear Campaign Finance Board:

I am writing to you today in hopes that you will waive the late fee for filing the Report of Receipts and Expenditures due on April 14, 2022, two business days late for PAC #40683.

Enclosed is my personal check in the amount of \$50 for the late filing.

The reason the report was filed late was due to a family medical emergency that prevented me from working April 14 & 15. To be specific, my father had a stroke. The report was completed by the PAC Treasurer (Linden Wicklund) and returned to me on April 13, I just didn't get a chance to scan and email it to you prior to getting the call about my father.

As you know, the Automotive Service Political Action Committee (ASPAC) is a very small PAC, with a checking account balance of just over \$3,500. The PAC has also been relatively inactive in for years. Please also take into consideration that all other reports for this PAC have been filed in a timely manner.

Thank you,

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

Jodi Pillsbury  
Office Manager  
AASP-MN

**From:** [Tarryl Clark](#)  
**To:** [Stevens, Melissa \(CFB\)](#)  
**Subject:** Requesting waiver of \$5 filing penalty & question about whether to amend filing  
**Date:** Friday, May 06, 2022 7:11:07 AM

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Good morning,

I'm requesting a waiver of the \$5 filing penalty for my county commissioner statement of economic interest. I was unclear about how/if to report some income from 2021 - and contacted staff later than I should have - on or about February 10. I did not yet have a 1099 and was unsure whether or if I met the threshold for reporting some contract work I did/do. After talking to staff, I left for D.C. and completed and submitted the online report that night. I thought it went through. However, I woke up in the middle of the night on 2/14-15 panicking and checked again given the date. Although I could see the work I completed, the page did not show it submitted. I submitted it and double checked - it was accepted. I recognize I was late, but believe I made it within the grace time - including the second attempt which was well before opening of business on 2/15, but may have technically been after midnight. This was almost a comedy — if it weren't that the filing was considered late enough to impose a fine. I apologize and already have my calendar notated to get it in early next year.

Ironically, once I received my 1099, I learned I didn't make enough to report it as an interest. In addition to the request to remove the fine, I am asking whether I should amend the interest as there was insufficient income to have required the disclosure or keep it as is since I'm still doing that contracted work.

Thank you for your time - you can reach me at 320-224-4944,

Tarryl Clark



**Minnesota Association of Wheat Growers**

2600 Wheat Drive • Red Lake Falls, MN 56750

Phone: 218-253-4311 • mnwheat.org

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April 29, 2022

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

RE: Lobbyist Principal Report due on 03/15/2022

Dear Ms. Engelhardt,

Your letter was received by Charlie Vogel of MN Association of Wheat Growers regarding a fee of \$25.00 due to late filing of the Lobbyist Principal Report due 03/15/2022. This report was submitted the morning of 03/16/2022, one day late.

Ag Management Solutions, with the retirement of MN Wheat Grower Association's finance director, assumed all financial duties for MN Wheat Growers Association. Email conversations between myself and Erika Ross resulted with the letter sent to me on 03/16/2022 at 9:54am. The report was successfully submitted before 10:34am that same day.

We ask that the \$25.00 fee be waived given the circumstances above. You may direct any questions or comments to Charlie Vogel at Minnesota Wheat Growers Association or directly to me at the information show below.

Thank you for your consideration,

Beth Roemhildt  
Grant and Contract Administrator  
Ag Management Solutions  
*Representing Minnesota Wheat Growers Association*  
1020 Innovation Lane  
Mankato, MN 56001  
507-385-7540

CC: Charlie Vogel – Executive Director - Minnesota Wheat Growers Association

**From:** Ross, Erika (CFB)  
**Sent:** Wednesday, March 16, 2022 9:54 AM  
**To:** Beth Roemhildt <Beth@agmgmtsolutions.com>  
**Cc:** Charlie Vogel <cvogel@mnwheat.com>  
**Subject:** RE: Annual Report of Lobbyist Principal due today, March 15, 2022

Sorry, here is the correct document.

Erika Ross  
Program Administrator  
Campaign Finance and Public Disclosure Board  
(651) 539-1187



**From:** Beth Roemhildt <[Beth@agmgmtsolutions.com](mailto:Beth@agmgmtsolutions.com)>  
**Sent:** Wednesday, March 16, 2022 9:42 AM  
**To:** Ross, Erika (CFB) <[Erika.T.Ross@state.mn.us](mailto:Erika.T.Ross@state.mn.us)>  
**Cc:** Charlie Vogel <[cvogel@mnwheat.com](mailto:cvogel@mnwheat.com)>  
**Subject:** FW: Annual Report of Lobbyist Principal due today, March 15, 2022

I don't believe this is correct. Please advise.

**Beth Roemhildt**  
**Grants & Contracts Administrator**  
**Ag Management Solutions**  
151 Saint Andrews Court  
Suite 710  
Mankato, MN 56001  
507-388-1635



**From:** Ross, Erika (CFB) <[Erika.T.Ross@state.mn.us](mailto:Erika.T.Ross@state.mn.us)>  
**Sent:** Wednesday, March 16, 2022 9:14 AM



**To:** Beth Roemhildt <[Beth@agmgmtsolutions.com](mailto:Beth@agmgmtsolutions.com)>  
**Cc:** Charlie Vogel <[cvogel@mnwheat.com](mailto:cvogel@mnwheat.com)>  
**Subject:** RE: Annual Report of Lobbyist Principal due today, March 15, 2022

Good Morning,

Attached to this email you will find the login credentials and filing instructions for the principal reporting system. Please let me know if you have any questions on filing the 2021 Annual Report of Lobbyist Principal.

Thank you,

Erika Ross  
Program Administrator  
Campaign Finance and Public Disclosure Board  
(651) 539-1187



**From:** Beth Roemhildt <[Beth@agmgmtsolutions.com](mailto:Beth@agmgmtsolutions.com)>  
**Sent:** Wednesday, March 16, 2022 8:58 AM  
**To:** Ross, Erika (CFB) <[Erika.T.Ross@state.mn.us](mailto:Erika.T.Ross@state.mn.us)>  
**Subject:** FW: Annual Report of Lobbyist Principal due today, March 15, 2022  
**Importance:** High

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Good morning Erika,

Ag Management Solutions began caring for Minnesota Wheat Association's finances in August of 2021 after their finance director retired. Minnesota Wheat cannot locate the letter sent to them to complete this report. Will you please send me the login information for Minnesota Wheat or if that is not possible, send it to Charlie Vogel (email address below), the executive Director of MN Wheat who will forward it to me for completion of this task. Our apologies for the oversight.

Thank you for your attention to this!

**Beth Roemhildt**  
**Grants & Contracts Administrator**

**Ag Management Solutions**

*representing Minnesota Wheat Research & Promotion Council  
and Minnesota Wheat Growers Association*

151 Saint Andrews Court  
Suite 710  
Mankato, MN 56001  
507-388-1635



**From:** Charlie Vogel <[cvogel@mnwheat.com](mailto:cvogel@mnwheat.com)>  
**Sent:** Tuesday, March 15, 2022 2:51 PM  
**To:** Scott Miller <[scott@agmgmtsolutions.com](mailto:scott@agmgmtsolutions.com)>  
**Subject:** FW: Annual Report of Lobbyist Principal due today, March 15, 2022

I have not seen a letter come here. I asked Bruce if he had seen it and below is his response. Do I need to call and try to locate?

Charlie

**From:** Bruce Kleven <[klevlaw@aol.com](mailto:klevlaw@aol.com)>  
**Sent:** Tuesday, March 15, 2022 2:50 PM  
**To:** Charlie Vogel <[cvogel@mnwheat.com](mailto:cvogel@mnwheat.com)>  
**Subject:** Re: Annual Report of Lobbyist Principal due today, March 15, 2022

I haven't; that letter does not get sent to me so I don't have it. Maybe call the campaign finance board at 651-539-1187 and see what they say. BK

-----Original Message-----

**From:** Charlie Vogel <[cvogel@mnwheat.com](mailto:cvogel@mnwheat.com)>  
**To:** Bruce Kleven <[klevlaw@aol.com](mailto:klevlaw@aol.com)>  
**Sent:** Tue, Mar 15, 2022 2:05 pm  
**Subject:** RE: Annual Report of Lobbyist Principal due today, March 15, 2022

Have you happened to see a letter with log-in credentials to complete the form?

Charlie

**From:** Bruce Kleven <[klevlaw@aol.com](mailto:klevlaw@aol.com)>  
**Sent:** Tuesday, March 15, 2022 1:15 PM

**To:** Charlie Vogel <[cvogel@mnwheat.com](mailto:cvogel@mnwheat.com)>  
**Subject:** Fwd: Annual Report of Lobbyist Principal due today, March 15, 2022

Hi Charlie,

Gail used to file this every March - do you need assistance with it? BK

-----Original Message-----

From: Ross, Erika (CFB) <[Erika.T.Ross@state.mn.us](mailto:Erika.T.Ross@state.mn.us)>  
To: [klevlaw@aol.com](mailto:klevlaw@aol.com) <[klevlaw@aol.com](mailto:klevlaw@aol.com)>  
Sent: Tue, Mar 15, 2022 12:01 pm  
Subject: Annual Report of Lobbyist Principal due today, March 15, 2022  
Date: March 15, 2022.

To: Bruce Kleven

The Campaign Finance Board would like your help in reminding your association that the Annual Report of Lobbyist Principal is due **Today, March 15, 2022**. At the date and time of this email, Board records show the association you are/were registered for -- **MN Assn of Wheat Growers**, Reg# 3607 -- has not yet filed the report.

Please assist us in reminding the association to file the report as soon as possible, as the fee for filing a late report will begin on Wednesday, March 16, 2022, at \$25.00 per day.

The letter with the username and password needed to file electronically was mailed to the individual identified as the contact person for the association. If the association has questions or needs assistance in filing the report, please have them contact our office at the phone number or email address below.

Thank you for your help.

Erika Ross  
Program Administrator  
Campaign Finance and Public Disclosure Board  
658 Cedar Avenue, Ste 190  
St Paul MN 55155  
**Tel: 651-539-1187**  
Fax: 651-296-1722  
Email: [Erika.t.ross@state.mn.us](mailto:Erika.t.ross@state.mn.us)  
<https://cfb.mn.gov>

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**From:** Momah, Samuel <[sammomah@shakopeeutilities.com](mailto:sammomah@shakopeeutilities.com)>  
**Sent:** Tuesday, May 10, 2022 3:17 PM  
**To:** Engelhardt, Megan (CFB) <[megan.engelhardt@state.mn.us](mailto:megan.engelhardt@state.mn.us)>  
**Cc:** Stevens, Melissa (CFB) <[melissa.stevens@state.mn.us](mailto:melissa.stevens@state.mn.us)>; Samuel Momah <[smomah1@icloud.com](mailto:smomah1@icloud.com)>  
**Subject:** MN Campaign Finance Report 5-10-22

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Megan,

Please accept my apology for sending this report late. I was out of the country since early April and just returned this last weekend only to find out that this report is late. Please grant me a waiver for the late fee accordingly. Let me know if you have any questions.

Thanks.

**Dr. Samuel Momah, Ph.D.**  
2289 Cascade Plaza North  
Woodbury, MN 55125  
651-214-4476 (Cell)  
[sammomah@shakopeeutilities.com](mailto:sammomah@shakopeeutilities.com)

Samuel Momah  
Engineering Technician



Dir 952-233-1506 • Main 952.445-1988  
[sammomah@shakopeeutilities.com](mailto:sammomah@shakopeeutilities.com) • [www.shakopeeutilities.com](http://www.shakopeeutilities.com)

**From:** Amy Lester <[amy.lester@revolgreens.com](mailto:amy.lester@revolgreens.com)>  
**Sent:** Friday, April 29, 2022 12:36 PM  
**To:** Engelhardt, Megan (CFB) <[megan.engelhardt@state.mn.us](mailto:megan.engelhardt@state.mn.us)>  
**Subject:** Request for late fees to be waived

---

Hello Megan –

I'm requesting that our late filing fees for the Lobbyist Principal Report for Reg No 7758 be waived.

Revol Greens is a company that is growing very quickly. As part of that growth plan, we have restructured our ownership and many of our management positions. As a result the original request for the Lobbyist Principal Report did not get to anyone at Revol Greens. It went to a former employee whose contact information is no longer active.

We have now updated the email address and contact information, so we will get future notifications timely.

Please let me know your thought on this matter –

Thank you

Amy



**Amy Lester**  
Group Controller  
Phone 952-465-4095

**Revol Greens**  
Revolutionizing Fresh in MN - CA - GA  
Coming 2022: Temple, TX



[www.revolgreens.com](http://www.revolgreens.com)

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**From:** B Reese <[finance@mikemarti.com](mailto:finance@mikemarti.com)>  
**Sent:** Thursday, May 19, 2022 2:40 PM  
**To:** Engelhardt, Megan (CFB) <[megan.engelhardt@state.mn.us](mailto:megan.engelhardt@state.mn.us)>  
**Cc:** Michael Marti <[MM@mikemarti.com](mailto:MM@mikemarti.com)>  
**Subject:** Marti 4 Minnesota - Request for a waiver of late filing fee

---

Dear Campaign Finance Board,

I am requesting forgiveness and grace in regards to the late filing for the close-out of a loan in the CFR tool.

The source of the error was a final loan payment occurring in early January. When doing the year-end reporting for 2021, the CFR tool informed me the transaction could not be included due to the date and needed to be part of a 2022 report. I misinterpreted this to mean I had to wait for a year-end report for 2022.

I would like to include a special thank you to Megan for the assistance given to me. It would have taken me a considerable amount of time to figure out the corrective actions.

Thank you,  
Brett Reese

**From:** Brett Benson <brett@mn350.org>  
**Sent:** Thursday, May 05, 2022 2:43 PM  
**To:** Olson, Andrew (CFB) <Andrew.D.Olson@state.mn.us>  
**Cc:** Tee McClenty <tee@mn350.org>  
**Subject:** request from MN350 for waiver of late fee

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Hi, Andrew -- As you know, MN350 recently submitted its 2021 year-end report late enough to incur a \$1,000 fee. I'm writing to request a waiver of that late fee, based on these mitigating factors:

- The staff member who previously submitted our CFB reports left the organization in 2021, leaving us with an unfortunate knowledge gap.
- To help fill that gap, MN350 retained an outside accounting firm whose responsibilities included completing and submitting CFB reports.
- In January, the outside accounting firm discovered errors in one of our previously submitted CFB reports. The firm recommended that we correct the errors and submit a revised report before submitting the 2021 year-end report. That caused us to miss the deadline by 2-3 weeks.
- After we submitted the revised report, the accounting firm generated the 2021 year-end report. However, there was uncertainty within our staff about who was officially designated to submit the report. In the process of sorting that out, it appears two staff members both mistakenly thought the other was going to submit the report. It was only when your office contacted us that we realized the report had not been submitted.

This sequence points to a need to shore up internal processes after staff transitions in 2021. We have already taken steps to accomplish that and are committed to delivering on-time reports in the future.

Best regards,  
Brett

--

**Brett Benson**  
Deputy Director/MN350 & MN350 Action  
651-368-1226  
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# MINNESOTA CAMPAIGN FINANCE BOARD

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**Date:** May 25, 2022

**To:** Board members

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

**Telephone:** 651-539-1190

**Re:** FEC v. Cruz, [No. 21-12](#), 2022 WL 1528348 (May 16, 2022)

## **Federal Limit on Loan Repayment using Funds Contributed After an Election**

Under federal law the committee of a federal candidate could repay a maximum of \$250,000 in personal loans from the candidate for a given election using contributions received after that election.<sup>1</sup> A federal committee using funds received on or before election day to repay loans from the candidate was required to do so within 20 days of the election.<sup>2</sup> Any personal loan balance that exceeded \$250,000 as of 20 days after the election was treated as a contribution from the candidate, meaning that it could not be repaid.<sup>3</sup>

## **Federal District Court Decision**

One day before the 2018 general election, U.S. Senator Ted Cruz made two loans to his federal Senate committee totaling \$260,000. The committee did not repay any of that balance within 20 days after the election, so \$10,000 was converted into a contribution. The committee later repaid the remaining \$250,000 in four payments concluding in December 2018.

In 2019 the Cruz committee brought a declaratory judgment action against the Federal Election Commission (FEC) alleging that the \$250,000 limit violates the First Amendment and that the FEC's implementing regulation is arbitrary and capricious. In June 2021 a three-judge district court panel unanimously granted summary judgment in favor of the Cruz committee.<sup>4</sup> Because the action sought declaratory and injunctive relief on the grounds that a portion of the Bipartisan Campaign Reform Act of 2002 (BCRA) is unconstitutional, the case was decided by a three-judge district court panel and that panel's decision was reviewable only by direct appeal to the United States Supreme Court.<sup>5</sup>

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<sup>1</sup> 52 U.S.C. § 30116 (j).

<sup>2</sup> 11 C.F.R. § 116.11 (c) (1).

<sup>3</sup> 11 C.F.R. § 116.11 (c) (2).

<sup>4</sup> *Ted Cruz for Senate v. Fed. Election Comm'n*, 542 F. Supp. 3d 1 (D.D.C. 2021).

<sup>5</sup> See 52 U.S.C. § 30110 note.

## United States Supreme Court Decision

On May 16, 2022, the United States Supreme Court affirmed the district court panel by a 6-3 vote, holding that BCRA Section 304<sup>6</sup> violates the First Amendment. The Court held that “[b]y restricting the sources of funds that campaigns may use to repay candidate loans, Section 304 increases the risk that such loans will not be repaid. That in turn inhibits candidates from loaning money to their campaigns in the first place, burdening core speech.” The Court declined to decide which level of scrutiny applies to the challenged provisions, determining that they could not survive review under strict or closely drawn scrutiny because the government failed to “prove at the outset that it is in fact pursuing a legitimate objective.” The Court emphasized that it “has recognized only one permissible ground for restricting political speech: the prevention of ‘*quid pro quo*’ corruption or its appearance.” The Court noted that it has “consistently rejected attempts to restrict campaign speech based on other legislative aims.”

In explaining why Section 304 does not serve a legitimate interest, the Court said that “the loan-repayment limitation is yet another in a long line of ‘prophylaxis-upon-prophylaxis approach[es]’ to regulating campaign finance.” The Court noted that individual contributions to federal candidates are already capped at \$2,900 per election. The Court stated that “[b]ecause the Government is defending a restriction on speech as necessary to prevent an anticipated harm, it must . . . point to ‘record evidence or legislative findings’ demonstrating the need to address a special problem,” while noting that the Court has “never accepted mere conjecture as adequate to carry a First Amendment burden.” The Court went on to say that “the Government is unable to identify a single case of *quid pro quo* corruption in this context—even though most States do not impose a limit on the use of post-election contributions to repay candidate loans.” The Court stated that media reports and anecdotes cited by the FEC were insufficient because they “merely hypothesize that individuals who contribute after the election to help retire a candidate’s debt might have greater influence with or access to the candidate,” and “[t]hat is not the type of *quid pro quo* corruption the Government may target consistent with the First Amendment.” The Court stated that the FEC “may not seek to limit the appearance of mere influence or access” and while the “line between *quid pro quo* corruption and general influence may seem vague at times . . . the distinction must be respected in order to safeguard basic First Amendment rights.”

The FEC referenced a poll in which most respondents considered it likely that a person who made a contribution to a candidate after an election would expect “a political favor in return.” However, the Court faulted the poll for not asking the same question regarding contributions made before an election. Also, the Court said that the poll “failed to define the term ‘political favor,’ leaving unclear the critical issue whether the respondents associated such contributions with the direct exchange of money for official acts, which Congress may regulate, or simply increased influence and access, which Congress may not.”

With respect to the FEC’s argument that using post-election contributions to repay a personal loan from the candidate is tantamount to a gift, the Court stated that the “comparison is meaningful only if the baseline is that the campaign will default. The Government, however, provides no reason to believe that most or even many winning candidates—the only candidates

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<sup>6</sup> 52 U.S.C. § 30116 (j).

with whom its anticorruption interest is concerned—expect not to be repaid by their campaigns.” The Court noted that two out of every three winning federal candidates have been able to repay their personal loans, and for such a candidate

post-election contributions bear little resemblance to a gift, because there is less of a chance that his campaign will default. Such contributions instead restore the candidate to the status quo ante, a position to which he legitimately expected to return. As for losing candidates, they are of course in no position to grant official favors, and the Government does not provide any anticorruption rationale to explain why post-election contributions to those candidates should be restricted.

In closing the majority opinion states that “the Government has not shown that Section 304 furthers a permissible anticorruption goal, rather than the impermissible objective of simply limiting the amount of money in politics.”

### **Potential Impact on Chapter 10A**

The decision does not appear to have a direct impact on Chapter 10A, which does not contain restrictions on the use of contributions received after election day or what funds a candidate committee may use to repay loans from the candidate. Also, the decision does not address what level of scrutiny applies to such restrictions. The decision does bolster previous opinions generally holding that restrictions on campaign speech may only target *quid pro quo* corruption or the appearance thereof, including those issued in *Thompson v. Hebdon*,<sup>7</sup> *McCutcheon v. FEC*,<sup>8</sup> *Citizens United v. FEC*,<sup>9</sup> *SpeechNow.org v. FEC*,<sup>10</sup> *Davis v. FEC*,<sup>11</sup> and *FEC v. National Conservative Political Action Committee*.<sup>12</sup>

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<sup>7</sup> *Thompson v. Hebdon*, 140 S. Ct. 348 (2019).

<sup>8</sup> *McCutcheon v. FEC*, 572 U.S. 185 (2014) (recognizing that *FEC v. Beaumont*, 539 U.S. 146 (2003) was overruled by *Citizens United v. FEC*).

<sup>9</sup> *Citizens United v. FEC*, 558 U.S. 310 (2010) (explicitly overruling *McConnell v. FEC*, 540 U.S. 93 (2003) and *Austin v. Michigan Chamber of Commerce*, 494 U.S. 652 (1990)).

<sup>10</sup> *SpeechNow.org v. FEC*, 599 F.3d 686, 695 (D.C. Cir. 2010) (recognizing that *FEC v. Colorado Republican Federal Campaign Committee*, 533 U.S. 431 (2001) was abrogated by *Citizens United v. FEC*).

<sup>11</sup> *Davis v. FEC*, 554 U.S. 724 (2008).

<sup>12</sup> *FEC v. Nat'l Conservative Pol. Action Comm.*, 470 U.S. 480 (1985).



**CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD**  
**June 2022**  
**ACTIVE FILES**

Candidate/Treasurer/ Lobbyist	Committee/Agency	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Personally Served	Default Hearing Date	Date Judgment Entered	Case Status
Jenny Rhoades		Candidate Statement of Economic Interest due 6/15/20—filed after lawsuit served.	\$100 LFF \$1,000CP	9/23/20	6/29/21 1/1/22	4/4/22		Rhoades has missed deadlines for filing her answer that the court has successively set for April 18, May 6, May 10, and May 24.
Jae Hyun Shim		Statement of Economic Interest due 1/25/2021	\$100 LFF \$1,000CP	9/7/21	2/9/22			Shim filed the statement on February 25. Matter placed on hold while the Board provides Shim an opportunity to pay the late fee and civil penalty.