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1 **CHAPTER 4503, CAMPAIGN FINANCE ACTIVITIES**

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3 **4503.0500 CONTRIBUTIONS.**

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7 **Subp. 2.** ~~[Repealed, L 2018 c 119 s 34]~~ **Contribution processors and professional**
8 **fundraisers.** A vendor may solicit, process, collect, or otherwise facilitate the accumulation of
9 contributions made to a principal campaign committee, political party unit, political committee, or
10 political fund, and may temporarily retain or control any contributions collected, without thereby
11 making a contribution to the intended recipient of the contributions, if the vendor is paid the fair
12 market value of the services provided. Contributions collected must be transmitted to the
13 intended recipient, minus any fees withheld by the vendor, ~~and must be identified with the~~
14 ~~name, address, and employment or occupation information required in Minnesota Statutes,~~
15 ~~section 10A.13.~~ A vendor that is paid the fair market value of any goods or services provided is
16 not a political committee or a political fund by virtue of providing those goods or services. A
17 vendor that determines which principal campaign committee, political party unit, political
18 committee, or political fund receives the contributions collected is a political committee or
19 political fund as provided in Minnesota Statutes, section 10A.01, even if the recipient of the
20 contributions pays the vendor the fair market value of the services provided to collect the
21 contributions.

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23 . . .

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25 ~~**Subp. 7. Contribution processors and professional fundraisers.** A vendor may solicit,~~
26 ~~process, collect, or otherwise facilitate the accumulation of contributions made to a principal~~
27 ~~campaign committee, political party unit, political committee, or political fund, and may~~
28 ~~temporarily retain or control any contributions collected, without thereby making a contribution to~~
29 ~~the intended recipient of the contributions, if the vendor is paid the fair market value of the~~
30 ~~services provided. Contributions collected must be transmitted to the intended recipient, minus~~
31 ~~any fees withheld by the vendor. A vendor that is paid the fair market value of any goods or~~
32 ~~services provided is not a political committee or a political fund by virtue of providing those~~
33 ~~goods or services. A vendor that determines which principal campaign committee, party unit,~~
34 ~~political committee, or political fund receives the contributions collected is a political committee~~
35 ~~or political fund as provided in Minnesota Statutes, section 10A.01, even if the recipient pays the~~
36 ~~vendor the fair market value for the services provided to collect the contributions.~~

37
38 **Subp. 7e.** ~~[Repealed, L 2017 1Sp4 art 3 s 18]~~ **Underlying sources of funding of**
39 **unregistered associations.** A principal campaign committee, party unit, or political committee
40 or fund that is not an independent expenditure or ballot question political committee or fund,
41 must consider an association's sources of funding in determining whether a contribution may be
42 accepted from an association that is not registered with the board as a principal campaign
43 committee, a party unit, a political committee, or the supporting association of a political fund. A
44 contribution from an unregistered association is prohibited if any of that association's sources of

1 funding would be prohibited from making the contribution directly under Minnesota Statutes,
2 section 211B.15, subdivision 2. Types of unregistered associations that are prohibited from
3 making a contribution to a principal campaign committee, a party unit, or a political committee or
4 fund that is not an independent expenditure or ballot question political committee or fund,
5 include, but are not limited to:

6
7 A. a political committee under the Federal Election Campaign Act of 1971, as amended,
8 including a separate segregated fund, that has received funding or administrative support from a
9 corporation that is not exempt under Minnesota Statutes section 211B.15, subdivision 15;

10
11 B. a political organization under section 527 of the Internal Revenue Code, as amended,
12 including an association that may be regulated by or operate within a state other than
13 Minnesota, that has received funding or administrative support from a corporation that is not
14 exempt under Minnesota Statutes section 211B.15, subdivision 15; and

15
16 C. an association that is not a political organization under section 527 of the Internal
17 Revenue Code, as amended, including an association not operated primarily for the purpose of
18 influencing elections, that has received funding or administrative support from a corporation that
19 is not exempt under Minnesota Statutes section 211B.15, subdivision 15.

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22 23 **4503.0800 DONATIONS IN KIND AND APPROVED EXPENDITURES.**

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25 Subpart 1. [Repealed, L 2005 c 156 art 6 s 68] **Contributor payment of processing fee.** If a
26 contributor pays a processing fee when making a contribution and the fee would otherwise have
27 been billed to the recipient of the contribution or withheld from the amount transmitted to the
28 recipient, the amount of the fee is a donation in kind to the recipient of the contribution. If the
29 donation in kind exceeds the amount specified in Minnesota Statutes, section 10A.13,
30 subdivision 1, the recipient's treasurer must keep an account of the contribution and must
31 include the contribution within campaign reports as required by Minnesota Statutes,
32 section 10A.20. If the donation in kind does not exceed the amount specified in Minnesota
33 Statutes, section 10A.13, subdivision 1, the recipient's treasurer is not required to keep an
34 account of the contribution or to include it within campaign reports filed under Minnesota
35 Statutes, section 10A.20.

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38 39 **4503.1700 VIOLATIONS RESULTING FROM COORDINATED EXPENDITURES.**

1 ~~[Repealed, L 2017-1Sp4 art 3 s 18]~~ A principal campaign committee is responsible for a violation
2 of a contribution limit or prohibition resulting from a coordinated expenditure, and the spender is
3 also responsible if it thereby violated a contribution limit or prohibition for which the contributor
4 may be penalized by the board. A principal campaign committee's or spender's knowledge of
5 the circumstances that resulted in an expenditure being a coordinated expenditure, including the
6 use of a common vendor or subcontractor, is not necessary for the board to determine that a
7 violation occurred as a result of a coordinated expenditure. When determining any penalty to be
8 imposed for a violation resulting from a coordinated expenditure, the board must consider:

9
10 A. any steps taken prior to the violation to determine whether the candidate engaged in
11 fundraising for the spender;

12
13 B. any steps taken prior to the violation to determine whether the candidate served as an
14 officer of the spender;

15
16 C. any steps taken prior to the violation to determine whether a vendor or subcontractor
17 provided or may provide services that may result in a coordinated expenditure;

18
19 D. any steps taken prior to the violation to determine whether a vendor or subcontractor that
20 provides consulting services has satisfied the conditions in Minnesota Statutes,
21 section 10A.176, subdivision 4;

22
23 E. any steps taken prior to the violation to determine whether a spender received nonpublic
24 information regarding a candidate's campaign plans, strategy, or needs;

25
26 F. any steps taken prior to the violation to determine whether a spender provided nonpublic
27 information to a candidate regarding an expenditure;

28
29 G. any steps taken prior to the violation to ensure that the candidate did not participate in
30 making the expenditure;

31
32 H. any additional steps taken prior to the violation to ensure that the expenditure was not
33 coordinated with the candidate;

34
35 I. any steps taken after the violation to mitigate its impact, including ceasing to disseminate
36 a communication that is a coordinated expenditure;

37
38 J. any steps taken after the violation to prevent an additional violation; and

39
40 K. the factors listed in Minnesota Statutes, section 14.045.

1 **CHAPTER 4525, HEARINGS, AUDITS, AND INVESTIGATIONS**

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3 **4525.0200 COMPLAINTS OF VIOLATIONS.**

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7 **Subp. 3. ~~[Repealed, 30 SR 903]~~ Withdrawal. Prior to a prima facie determination being**
8 **made, a complaint may be withdrawn upon the written request of the person making the**
9 **complaint or any individual authorized to act on that person's behalf. After a prima facie**
10 **determination is made, a complaint may not be withdrawn.**

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14 **4525.0210 DETERMINATIONS PRIOR TO AND DURING FORMAL INVESTIGATION.**

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16 ...

17
18 [Version 1 – similar to standard applied in past probable cause determinations]

19
20 **Subp. 3. Making the probable cause determination. In determining whether there is**
21 **probable cause to believe a violation occurred, any evidence obtained by or known to the board**
22 **may be considered. Arguments of the respondent and complainant must be considered.**
23 **Probable cause exists if a complaint and any evidence obtained by or known to the board**
24 **presents facts which, if proven to be true, would result in a finding of a violation by the board.**

25
26 [Version 2 – similar to OAH standard in Fair Campaign Practices Act matters]

27
28 **Subp. 3. Making the probable cause determination. In determining whether there is**
29 **probable cause to believe a violation occurred, any evidence obtained by or known to the board**
30 **may be considered. Arguments of the respondent and complainant must be considered.**
31 **Probable cause exists if there are sufficient facts in the record to believe that a violation of law**
32 **has occurred.**

33
34 [Version 3 – similar to general standard cited by the Supreme Court in McGlothlin
35 v. Steinmetz, 751 N.W.2d 75, 81 (Minn. 2008)]

36
37 **Subp. 3. Making the probable cause determination. In determining whether there is**
38 **probable cause to believe a violation occurred, any evidence obtained by or known to the board**
39 **may be considered. Arguments of the respondent and complainant must be considered.**

1 Probable cause exists if there is some showing by evidence that fairly and reasonably tends to
2 show that a violation of law has occurred.

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6 **4525.0500 INVESTIGATIONS AND AUDITS; GENERAL PROVISIONS.**

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10 Subp. 2. ~~Repealed, 39 SR 757~~ Penalties. Prior to imposing a civil penalty, the board must
11 consider the factors listed within Minnesota Statutes, section 14.045. The board may consider
12 additional factors including, but not limited to, any measures taken to prevent a violation, any
13 measures taken to remedy or mitigate the violation, the magnitude of a financial violation, the
14 violator's willingness to timely accept responsibility for the violation, and any factors that made it
15 difficult for the violator to avoid a violation.

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17 . . .

18
19 **4525.0550 FORMAL AUDITS.**

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21 Subpart 1. Formal audit. The purpose of a formal audit is to ensure that all information
22 included in the report or statement being audited is accurately reported. The fact that the board
23 is conducting a formal audit does not imply that the subject of the audit has violated any law.
24 When conducting an audit, the board may require testimony under oath, permit written
25 statements to be given under oath, and to issue subpoenas and cause them to be served.
26 When conducting an audit the board may require the production of any records required to be
27 retained under Minnesota Statutes, section 10A.025.

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31 Subp. 5. Audits of other campaign finance filings. The board may audit any campaign
32 finance report or statement that is filed or required to be filed with the Board under Minnesota
33 Statutes, Chapter 10A or Chapter 211B. The board may conduct a partial audit, including
34 auditing a campaign finance report to determine whether a beginning or ending balance
35 reconciles with the filer's financial records. In determining whether to undertake an audit, the
36 board must consider the availability of board resources, the possible benefit to the public, and
37 the magnitude of any reporting failures or violations that may be discovered as a result of the
38 audit. The board may conduct audits in which respondents are selected on a randomized basis
39 designed to capture a sample of respondents that meet certain criteria. The board may conduct
40 audits in which all respondents meet certain criteria. When undertaking an audit with

- 1 respondents selected on a randomized basis, the board must, to the extent possible, seek to
- 2 prevent ~~selecting the audit from affecting~~ respondents ~~differently~~ based on their political party
- 3 affiliation, or if the respondents are candidates, based on their incumbency status.