

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

**Findings and Order in the Matter of the Complaint  
by Chris Thorp regarding Jim Nash**

**Evidence Used in These Findings**

On December 10, 2010, the Campaign Finance and Public Disclosure Board (the Board) received a complaint from Chris Thorp, Chair of Senate District 34 DFL, regarding alleged violations of Chapter 10A by Jim Nash. The complaint alleges that Mr. Nash was required to register a principal campaign committee with the Board because of his efforts to secure the Republican Party endorsement for House of Representatives District 34A. The complaint also alleges that Mr. Nash did not file the Reports of Receipts and Expenditures required of registered principal campaign committees.

Minnesota Statutes, section 10A.14, subdivision 1, requires the treasurer to register a principal campaign committee with the Board no later than 14 days after the committee has made a contribution, received contributions, or made expenditures in excess of \$100. Failure to file a required registration in a timely manner is punishable with a late fee of five dollars a day, not to exceed \$100.

In support of the complaint Mr. Thorp provided a copy of a story that appeared in the Chaska Herald on May 7, 2010, in which Mr. Nash announces that he is seeking the Republican Party endorsement, copies of graphic art logos used by Mr. Nash while seeking the endorsement, information about Sherwin Schwartzrock who developed the logos for Mr. Nash, a screenshot of a Facebook posting by Mr. Nash on May 20, 2010, which indicates that campaign signs, stickers, and literature had been produced and would be distributed in support of his campaign for the endorsement, and a copy of a Chaska Herald story dated May 25, 2010, describing the results of the Republican endorsement convention.

The complaint also questions whether the graphic art logos are corporate contributions because Mr. Schwartzrock is a principal in Schwartzrock Graphic Arts. Corporate contributions to candidates are regulated by Minnesota Statutes, section 211B.15. The enforcement of Chapter 211B is outside of the Board's authority, therefore, this portion of the complaint was not part of the Board investigation.

Mr. Nash was notified of the complaint on December 16, 2010, and offered the opportunity to respond to the allegations in the complaint. Mr. Nash's response was received by the Board on December 29, 2010. Mr. Nash provides that his involvement with the 2010 state election was unexpected. Mr. Nash states, "The entry into the endorsing process was very last minute when Rep. Kohls announced that he was not going to run again...I will admit that things were moving so quickly that I did not look deeper into the issue after losing." Mr. Nash further provided that, "I paid for all expenses myself and did not raise funds from any outside donors for this attempt..."

Mr. Nash also addressed how the graphic art logos were provided to his campaign, "As to the matter of the logo creation by Mr. Schwartzrock, as he is a longtime friend and offered to do the logo creation on his own time and indicated that he did so as a gesture towards a friend."

With his response Mr. Nash submitted a completed Report of Personal Expenditures by a Candidate without a principal campaign committee for the period January 1, through June 30, 2010. The report itemizes a total of \$1,209.39 in expenditures by Mr. Nash for signs, stickers, t-shirts, a banner, and literature in support for his attempt to secure the party endorsement.

## Board Analysis of Allegations

The complainant correctly recognized that Mr. Nash would likely have made expenditures in excess of \$100 during his campaign for the party endorsement. However, the requirement to submit a registration for a principal campaign committee within 14 days of spending more than \$100 applies only if the candidate is required to form a principal campaign committee. A candidate who does not accept contributions from other sources, and spends only personal funds on their campaign, is not required to form a principal campaign committee under the provisions of Minnesota Statute, section 10A.105. Therefore, the 14 day registration deadline does not apply if Mr. Nash did not accept contributions to his campaign.

The complaint questions if the the graphic art logos provided to Mr. Nash by Mr. Schwartzrock are in-kind donations to the campaign. In-kind donations are a type of contribution, and if Mr. Nash accepted in-kind contributions, that would have triggered the requirement to form a principal campaign committee. However, Minnesota Statutes, section 10A.01, subdivision 11 (c) specifically excludes "services provided without compensation by an individual volunteering personal time on behalf of a candidate", from the definition of "contribution". Mr. Nash states that the logos were developed by Mr. Schwartzrock "on his own time". Although Mr. Schwartzrock is a professional graphic artist that does not exclude him from volunteering personal time to develop a logo for Mr. Nash. Lacking any evidence that Mr. Schwartzrock was compensated for the logos, or did not use personal time while developing the artwork, the Board concludes the logos are not contributions as defined in Chapter 10A.

Mr. Nash states in his response that he did not raise funds from outside sources for his campaign. Lacking evidence to the contrary, and having determined that the logos were not in-kind contributions to Mr. Nash's campaign, there is no evidence that Mr. Nash accepted contributions that would require him to form and register a principal campaign committee with the Board.

Mr. Nash does acknowledge spending over \$1,200 in personal funds on his effort to gain the party endorsement. Candidates who are not required to form a principal campaign committee may still have a disclosure obligation under the provisions of Minnesota Statutes, section 10A.20, subdivision 6. This statute provides that a candidate who does not form a principal campaign committee must submit a report to the Board if the candidate spends over \$100 in the calendar year on their campaign. The reporting period for a candidate who uses only personal funds is the same as for candidates who do have a principal campaign committee. The first report due date for candidates in 2010 was July 26, 2010. A candidate who fails to file a report by the due date may be subject to a late filing fee of \$50 per day to a maximum of \$1,000.

Mr. Nash has now provided to the Board the required report of personal expenditures on behalf of his campaign. The lateness of the disclosure report to the public is of concern to the Board. Candidates for state level office must familiarize themselves with the provisions of Chapter 10A. There are however, mitigating factors. Mr. Nash did not appear on the ballot for state office in 2010. Mr. Nash was a candidate for state office for approximately eighteen days from May 6, 2010, when he announced he was seeking the party endorsement to May 24, 2010, when he lost the endorsement to another candidate. As already provided Mr. Nash did not receive contributions; therefore the disclosure that is late is the itemization of how Mr. Nash spent \$1,209 on his campaign. The Board considered these factors when setting the late filing fee for Mr. Nash.

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

**Findings Concerning Probable Cause**

1. There is no probable cause to believe that Jim Nash was required to form or register a principal campaign committee with the Board during 2010.
2. There is probable cause to believe that Jim Nash spent over \$100 of personal funds in support of his campaign for the Republican Party endorsement in House of Representative District 34A.
3. There is probable cause to believe that Jim Nash failed to file a report of personal expenditures by a candidate without a principal campaign committee on the due date of July 26, 2010. There is probable cause to believe that a complete report of Mr. Nash's expenditures has now been filed.

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

**Order**

1. The Board imposes a late filing fee of \$100 on Jim Nash for failure to timely file a report of his personal expenditures on behalf of his campaign as required by Minnesota Statutes, section 10A.20, subdivision 6.
2. Jim Nash is directed to forward to the Board payment of the late filing fee by check or money order payable to the State of Minnesota within thirty days of receipt of this order.
3. If Jim Nash does not comply with the provisions of this order, the Board's Executive Director may request that the Attorney General bring an action for the remedies available under Minnesota Statutes, section 10A.34.
4. The Board investigation of this matter is hereby made a part of the public records of the Board pursuant to Minnesota Statutes, section 10A.02, subdivision 11, and upon payment by the late fee imposed herein, this matter is concluded.

Dated: January 10, 2011

/s/ John Scanlon\_\_\_\_\_

John Scanlon, Chair  
Campaign Finance and Public Disclosure Board

## Relevant Statutes

### **10A.01 DEFINITIONS.**

Subdivision 11. **Contribution.** (a) "Contribution" means money, a negotiable instrument, or a donation in-kind that is given to a political committee, political fund, principal campaign committee, or party unit.

(c) "Contribution" does not include services provided without compensation by an individual volunteering personal time on behalf of a candidate, ballot question, political committee, political fund, principal campaign committee, or party unit; the publishing or broadcasting of news items or editorial comments by the news media; or an individual's unreimbursed personal use of an automobile owned by the individual while volunteering personal time.

### **10A.105 PRINCIPAL CAMPAIGN COMMITTEE.**

Subdivision 1. **Single committee.** A candidate must not accept contributions from a source, other than self, in aggregate in excess of \$100 or accept a public subsidy unless the candidate designates and causes to be formed a single principal campaign committee for each office sought. A candidate may not authorize, designate, or cause to be formed any other political committee bearing the candidate's name or title or otherwise operating under the direct or indirect control of the candidate. However, a candidate may be involved in the direct or indirect control of a party unit.

### **10A.14 REGISTRATION.**

Subdivision 1. **First registration.** The treasurer of a political committee, political fund, principal campaign committee, or party unit must register with the board by filing a statement of organization no later than 14 days after the committee, fund, or party unit has made a contribution, received contributions, or made expenditures in excess of \$100, or by the end of the next business day after it has received a loan or contribution that must be reported under section 10A.20, subdivision 5, whichever is earlier.

### **10A.20 CAMPAIGN REPORTS**

Subdivision 6. **Report when no committee.** A candidate who does not designate and cause to be formed a principal campaign committee and an individual who makes independent expenditures or expenditures expressly advocating the approval or defeat of a ballot question in aggregate in excess of \$100 in a year must file with the board a report containing the information required by subdivision 3. Reports required by this subdivision must be filed on the dates on which reports by committees, funds, and party units are filed.