

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

CONCILIATION AGREEMENT

In the matter of Minnesota for Freedom (30733);

1. Minnesota for Freedom is an independent expenditure political fund. Its supporting association is the Republican Attorneys General Association. On October 18, 2022, the Board received a complaint submitted on behalf of the Minnesota DFL alleging that the fund violated the individual contribution limit under Minnesota Statutes section 10A.27, subdivision 1. The complaint asserted that the fund made expenditures that were coordinated with the Jim Schultz For Minnesota Attorney General committee related to advertisements, and thereby made contributions to the Schultz committee far in excess of the \$2,500 limit applicable to the 2021-2022 election cycle segment. The complaint also alleged that the fund violated Minnesota Statutes section 10A.121, which prohibits an independent expenditure political fund from making an approved expenditure or otherwise making a contribution to a candidate. On October 26, 2022, the Board's vice chair determined that the complaint stated prima facie violations of the individual contribution limit and the prohibition on approved expenditures. On November 4, 2022, the Minnesota DFL supplemented its complaint, providing evidence of additional expenditures made by Minnesota for Freedom related to advertisements advocating the defeat of the opponent of Mr. Schultz, Attorney General Keith Ellison. On February 8, 2023, the Board found that there was probable cause to believe that violations of the individual contribution limit and the prohibition on approved expenditures occurred. The Board ordered that an investigation commence unless the respondents agree to enter into conciliation agreements to resolve the matter pursuant to Minnesota Statutes section 10A.28, subdivision 3.

2. Minnesota Statutes section 10A.176, subdivision 4, provides that “[a]n expenditure is a coordinated expenditure if the expenditure is made during an election segment for consulting services from a consultant who has also provided consulting services to the candidate or the candidate's opponent during that same election segment.” The statute includes an exception for consulting services provided when five specific conditions are met, including the consultant's assignment of “separate personnel to the spender and the candidate.” Minnesota Statutes section 10A.175, subdivision 4, defines consulting services to mean “services involving campaign strategy” consisting of “polling, communications planning and design, advertising, and messaging,” but not “printing or mailing campaign material, legal services that do not involve campaign strategy, accounting services, or costs for the use of a medium for communications purposes.” A coordinated expenditure is an approved expenditure, which is a contribution to the candidate on whose behalf it was made, under Minnesota Statutes sections 10A.175, subdivision 5, and 10A.01, subdivision 4.

3. OnMessage, Inc. provided consulting services to the Schultz committee and served as its agent within the meaning of Minnesota Statutes section 10A.175, subdivision 2, in 2022. OnMessage, Inc. made expenditures on behalf of the Schultz committee for consulting services

provided in 2022 by National Media Research Planning and Placement, LLC (National Media). Those expenditures consisted of expenses related to development of a media plan for advertisements advocating the election of Mr. Schultz and implementation of that plan by National Media staff.

4. Minnesota for Freedom made expenditures for consulting services provided in 2022 by National Media. Those expenditures consisted of expenses related to development of a media plan for advertisements expressly advocating the election of Mr. Schultz or the defeat of Attorney General Ellison and implementation of that plan by National Media staff. The amount that National Media paid to third parties for the cost of broadcasting these advertisements is excluded from the calculation of the coordinated expenditures made because “costs for the use of a medium for communications purposes” are excluded from the definition of consulting services.

5. National Media assigned separate personnel to Minnesota for Freedom’s advertising and to the Schultz committee’s advertising. However, one employee of National Media signed one or more advertising agreements on behalf of the Schultz committee, and also signed advertising agreements on behalf of Minnesota for Freedom. Because there was not complete separation of personnel, the expenditures that Minnesota for Freedom made in 2022 for consulting services provided by National Media were done using shared consultants under Minnesota Statutes section 10A.176, subdivision 4. As such, this caused the Board to conclude that Minnesota for Freedom’s expenditures were coordinated with the Schultz committee. Those expenditures totaled \$259,978.50.

6. Minnesota for Freedom, the Schultz committee, and National Media each stated that the employee in question was not involved in decisions regarding campaign strategy. The Schultz committee explained that it did not have direct contact with National Media and had no knowledge of the National Media employee in question. Minnesota for Freedom said that no information was shared between Minnesota for Freedom and the Schultz committee. National Media’s president stated in a sworn affidavit that “information related to media buying for [Minnesota for Freedom] was not communicated or provided to any . . . National Media staff member who may have been participating in decisions regarding the timing, location, intended audience, or distribution of campaign advertising for any other client engaged in the 2022 election for Minnesota Attorney General.”

7. An independent expenditure political fund that violates Minnesota Statutes section 10A.121 is “subject to a civil penalty of up to four times the amount of the contribution or approved expenditure” and “[n]o other penalty provided in law may be imposed for conduct that is subject to a civil penalty under [that] section.” The Board has not previously found any committee or fund to have violated that provision. A civil penalty equal to or exceeding the amount of the violation would not be appropriate in this instance because this is a first-time violation and the amount of the violation is not directly correlated with the gravity of the violation.¹ The evidence

¹ [Minnesota Statutes section 14.045, subdivision 3](#), lists factors that agencies must consider when setting the amount of a fine including the gravity, willfulness, and number of violations; the offender’s past violations and economic benefit; and any other factor that justice requires.

in the record indicates that substantive, nonpublic information was not shared between personnel providing services on behalf of Minnesota for Freedom and personnel providing services on behalf of the Schultz committee. Therefore, the Board concludes that considering the totality of the circumstances, including the lack of evidence of sharing of substantive nonpublic information, it would be disproportionate to use the dollar amount of the violation as a basis for the penalty in this agreement.

8. The parties agree that Minnesota for Freedom and the Schultz committee inadvertently shared consultants under Minnesota Statutes section 10A.176, subdivision 4, which resulted in the Board concluding that Minnesota for Freedom made expenditures on behalf of Mr. Schultz in violation of Minnesota Statutes section 10A.121, and in excess of the \$2,500 individual contribution limit under Minnesota Statutes section 10A.27, subdivision 1. Minnesota for Freedom agrees to the imposition of a civil penalty of \$1,000 for its violation of Minnesota Statutes section 10A.121. Payment is due within 30 days of the date the agreement is signed by both parties.

9. The parties agree that Minnesota for Freedom is not required to amend any of its campaign reports covering the 2022 calendar year.²

10. If the fund does not comply with the provisions of this agreement, this matter may be reopened by the Board and the Board may take such actions as it deems appropriate.

/s/ Lee Russell
Lee Russell, Treasurer
Minnesota for Freedom

Dated: May 3, 2023

/s/ George W. Soule
George W. Soule, Chair
Campaign Finance and Public Disclosure Board

Dated: April 26, 2023

² Coordinated expenditures are contributions to the candidate on whose behalf they were made. However, in this instance, requiring Minnesota for Freedom to amend its reports to include \$259,978.50 in in-kind contributions made would result in reports that are misleading.