

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

**Findings and Order in the matter of A Complaint Regarding Suzanne Napgezek  
and an unregistered association referred to as “Citizens For Johnson”**

**Summary of the Allegations and Responses**

On October 3, 2006, Tom Van Engen, (“Complainant”) filed a complaint against Suzanne Napgezek (“Respondent”) and an entity referred to in the complaint as “Citizens for Johnson” alleging that Respondent violated Minnesota Statutes Chapter 10A.

Complainant alleges that in 2006, “Citizens for Johnson” acting through Suzanne Napgezek spent more than \$1,200 on radio advertisements in favor of the primary election of State Senator Dean Johnson. Complainant further alleges that this spending, intended to influence the election of Senator Johnson, required the responsible group to register with the Board.

Complainant also alleges that a group of people ran newspaper advertisements supporting the primary election of Senator Johnson; that the people who paid for the advertisements had not registered with the Board; and that there is sufficient evidence to believe that the advertisements were done in coordination with Senator Johnson’s principal campaign committee, which would make them contributions to that committee.

As supporting evidence, Complainant provided an agreement form for advertising between KWLM, KOLV, and KQIC radio stations and “Citizens in Support of Johnson”, indicating that Suzanne Napgezek was the authorized agent of the group. He also provided a document titled “KOLV Contract Confirmation” listing the purchase of 30 advertising spots at a total cost of \$511.50; a similar document with station KQIC listing 30 spots at a cost of \$703.50; and a third similar document with station KWLM listing 30 spots at a cost of \$525.00.

Complainant also provided a copy of an advertisement run on September 9, 2006, in the *West Central Tribune* published in Willmar, MN. The advertisement stated “We support the re-election of Dean Elton Johnson as our State Senator” and urged people to vote in the DFL primary. The advertisement listed the names of a large number of individuals, including Suzanne Napgezek and included at the bottom, the following: “This independent expenditure is not authorized by any candidate or political party. It is paid for by the people listed above.”

Upon receipt of the complaint, Board staff notified Suzanne Napgezek of the allegations and afforded her an opportunity to respond. On October 16, 2006, Ms. Napgezek responded by e-mail to the staff inquiry. Staff sent supplemental requests for information on October 24, 2006, and November 9, 2006, and responses were provided by Ms. Napgezek. The summary below incorporates information from all of the responses.

Respondent stated that the events leading to the radio and newspaper advertisements began one evening when she and her husband were having dinner at their home with two friends. She recalled looking out the window at the house of “a neighbor who was pretending to be a Democrat running against Dean Johnson in the primary”. She felt that this was a dishonest campaign and as a citizen she wanted to do something about it. She announced that she would write a notice for the newspaper in support of Dean Johnson and that anyone who wanted to help pay for it would be welcome and could have their names on the statement. She intended to put the ad in the *West Central Tribune*, a local newspaper. The others at the dinner agreed that this was a good idea. She states that at no time was there any involvement by the Democratic Party or the Dean Johnson campaign.

Ms. Napgezek prepared text for an ad and e-mailed it to others for comment, including to one of the friends who had been a dinner guest when the idea was conceived. According to Respondent, word began to spread quickly about the effort and people began bringing money to her door. Because she considered this to be an informal citizen effort, she did not keep records of the amounts that people gave. She did keep a list of contributor names to use in the advertisement. She did not separate the money she raised from her personal accounts, but used the family checking account to process the contributions.

After a couple of days, Respondent had more money than she needed for the newspaper advertisement and she felt that the money should be used for the intended purpose, so she arranged for ads in two smaller local newspapers, the *Lake Region Weekly* and the *Willmar Reminder*.

The *Lake Region Weekly* had an earlier deadline, so its staff produced the copy for the advertisement. One of the photos of Dean Johnson that was used in the advertisement came from a piece of campaign literature that Respondent had received and the other was a file photo from the newspaper. The disclaimer text at the bottom of the newspaper advertisement was Respondent's idea, as she had seen similar text on other newspaper ads and she wanted to be sure that readers understood that the ad was run by local citizens, not an outside group.

The same friend who was at the original dinner and who received the advertisement text for comment paid for the ad in the *Lake Region Weekly* and was reimbursed by Suzanne Napgezek from the money that had been donated.

Respondent states that money continued to come in so she went to the local radio station to inquire about radio advertisements. A staff person at the radio station wrote text for a radio advertisement and made up the name "Citizens in Support of Johnson" to give the account a name. The script for the radio advertisement did not mention the name. It urged people to vote for Dean Johnson in the primary and urged listeners to see the local newspapers for a list of the people who were paying for the advertisement. The spot concluded with the line: "This ad is paid for by a group of citizens who would like to re-elect Dean Johnson and is not endorsed by the candidate."

When the time ran out to place media advertisements, Respondent stopped accepting donations. She told the radio station representative how much money was available and entered into an agreement to run as many radio spots as funds permitted. She has spent all of the money that was contributed for the effort.

Respondent states that she had no understanding that citizens could not pool resources to influence elections without forming a political committee. Based on the newspaper list of contributors, she was able to identify some contribution amounts, but many were missing. She has no written records of how much each person gave.

### **Board Analysis**

Pursuant to Minnesota Statutes, Section 10A.01, subd. 6, when two or more persons act in concert, they constitute an association. If a major purpose of the association is to influence the election of a candidate, the association is considered a political committee under Minnesota Statutes, Section 10A.01, subd. 27.

Respondent Napgezek acknowledges that at a social dinner meeting she came up with the idea of promoting the election of Dean Johnson in the DFL primary election. Present at the meeting were

her husband and two friends, all of whom agreed that her idea was a good one. The next day Respondent put together text for a proposed advertisement promoting the election of Dean Johnson. The text was sent to one of the friends who had been at the dinner for feedback. Later, this same friend paid for the advertisement run in the *Lake Region Weekly* and was reimbursed by Suzanne Napezek from the money that had been raised.

The actions of Respondent and her friend were actions taken in concert to influence the election of Dean Johnson. As a result an association was formed. Although the two individuals may have had other interests in common, the major purpose of the association created by their interest in the Johnson election was to influence the election. Thus, they became a political committee by operation of law. A political committee must register with the Board within 14 days of raising or spending more than \$100.

Respondent acknowledges that no political committee was registered with the Board. Minnesota Statutes, Section 10A.14, which requires registration of the committee, provides no penalty for failure to register except after the Board has given certified notice to the committee of its registration requirement. Because this matter has been under investigation, the Board has not given such notice to Respondent.

Pursuant to Minnesota Statutes, Section 10A.11, a political committee must have a chair and treasurer. It must have a bank account separate from the personal bank account of any committee member or officer. Because Respondent did not consider her actions to be those of a political entity, no organizational structure was in place and no separate bank account was opened. A person who knowingly violates the provisions of Section 10A.11 is subject to a civil penalty of up to \$1,000. There is no evidence that Respondent knew or understood that her actions were in violation of this section.

Once a political committee has been organized, its treasurer must keep accounts of its financial activities pursuant to Minnesota Statutes, Section 10A.13. A person who knowingly violates Section 10A.13 is subject to a civil penalty of up to \$1,000. The treasurer must also file periodic reports with the Board pursuant to Minnesota Statutes, Section 10A.20. Since the association formed by Respondent and others had not organized as a political committee, there was no treasurer. No itemized records of contributions received were kept and no reports were filed.

If a political committee makes expenditures to influence the election of a candidate and those expenditures are made in cooperation with, or with the express or implied consent of the candidate or the candidate's agent, they constitute contributions to the candidate. Otherwise, such expenditures are considered independent expenditures. Minnesota Statutes, Section 10A.01, subs. 4 and 18.

There is no evidence that any of the expenditures of the committee were made with the express or implied consent of Senator Dean Johnson or his committee. Thus the expenditures were independent expenditures, not approved expenditures as the Complainant alleges.

Minnesota Statutes, Section 10A.17, subd. 4, requires a disclaimer on advertisements that are considered independent expenditures. The disclaimer must state that the expenditure is an independent expenditure and that it is not approved by the candidate nor is the candidate responsible for it. A person who knowingly violates this provision is guilty of a gross misdemeanor and subject to a civil penalty of up to \$3,000.

Both the newspaper and the radio advertisements under review included language apparently intended to constitute an independent expenditure disclaimer. The language of the newspaper advertisement is not entirely consistent with the statutory requirement and the language of the radio

advertisement clearly falls short of the requirement. There is no evidence that Respondent knew about the statutory requirement or that she had any intention of violating it.

This matter was considered by the Board in executive sessions on November 28, 2006. The Board's decision is based on the complaint, the responses, results of the Board investigation, and Board records.

**Based on the evidence before it, the Board makes the following:**

#### **FINDINGS CONCERNING PROBABLE CAUSE**

1. There is probable cause to believe that the actions of Respondent Suzanne Napgezok and others were the actions of an association and that the contributions raised by the association created a political committee which failed to appoint a chair and treasurer and to register with the Board.
2. There is probable cause to believe that the Respondent failed to maintain a separate bank account for the political committee and that she commingled committee funds with her personal funds.
3. There is probable cause to believe that the independent expenditure disclaimer notices used by the political committee in its newspaper and radio advertisements fell short of the statutory requirement for such notices.
4. There is no probable cause to believe that any of the acts which resulted in violations were done with knowledge of the statutory requirements or with the intent to violate those requirements.

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

#### **ORDER**

1. Respondent must register a political committee with the Board within 10 days of the date of this order. If Respondent intends to terminate registration of this committee upon submission of the disclosure required under paragraph 2 of this order, the requirement that the committee establish a separate bank account is waived.
2. The political committee established under paragraph 1 of this order must file a Report of Receipts and Expenditures with the Board for the period of January 1, 2006, through the last date that it raised or spent money to influence the election of a candidate. The report must be filed within 30 days of the date of this order. The committee may terminate its registration after making this disclosure as long as it meets the statutory requirements for termination.
3. The record in this matter and all correspondence is hereby entered into the public record in accordance with Minnesota Statutes, section 10A.02, subd. 11.

Dated: November 28, 2006

  
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Bob Milbert, Chair  
Campaign Finance and Public Disclosure Board

## Relevant Statutes

### Statutes

#### Minnesota Statutes, Chapter 10A

##### 10A.01 Definitions.

Subdivision 1. **Application.** For the purposes of this chapter, the terms defined in this section have the meanings given them unless the context clearly indicates otherwise.

. . .

Subd. 4. **Approved expenditure.** "Approved expenditure" means an expenditure made on behalf of a candidate by an entity other than the principal campaign committee of the candidate, if the expenditure is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of the candidate, the candidate's principal campaign committee, or the candidate's agent. An approved expenditure is a contribution to that candidate.

. . .

Subd. 6. **Association.** "Association" means a group of two or more persons, who are not all members of an immediate family, acting in concert.

. . .

Subd. 18. **Independent expenditure.** "Independent expenditure" means an expenditure expressly advocating the election or defeat of a clearly identified candidate, if the expenditure is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent. An independent expenditure is not a contribution to that candidate.

. . .

Subd. 27. **Political committee.** "Political committee" means an association whose major purpose is to influence the nomination or election of a candidate or to promote or defeat a ballot question, other than a principal campaign committee or a political party unit.

##### 10A.11 Organization of committees and party units.

Subdivision 1. **Chair and treasurer.** A political committee, principal campaign committee, or party unit must have a chair and a treasurer. The chair and treasurer may be the same individual.

. . .

Subd. 5. **Commingling prohibited.** A political committee, principal campaign committee, or party unit may not commingle its funds with personal funds of officers, members, or associates of the committee.

. . .

Subd. 7. **Penalty.** A person who knowingly violates this section is subject to a civil penalty imposed by the board of up to \$1,000.

**10A.13 Accounts that must be kept.**

Subdivision 1. **Accounts; penalty.** The treasurer of a political committee, political fund, principal campaign committee, or party unit must keep an account of:

- (1) the sum of all contributions, except any donation in kind valued at \$20 or less, made to the committee, fund, or party unit;
- (2) the name and address of each source of a contribution made to the committee, fund, or party unit in excess of \$20, together with the date and amount of each;
- (3) each expenditure made by the committee, fund, or party unit, together with the date and amount;

. . .

Any individual who knowingly violates this subdivision is subject to a civil penalty imposed by the board of up to \$1,000.

**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.

. . .

Subd. 4. **Failure to file; penalty.** The board must send a notice by certified mail to any individual who fails to file a statement required by this section. If the individual fails to file a statement within ten business days after the notice was sent, the board may impose a late filing fee of \$5 per day, not to exceed \$100, commencing with the 11th day after the notice was sent.

**10A.20 Campaign reports.**

Subdivision 1. **First filing; duration.** The treasurer of a political committee, political fund, principal campaign committee, or party unit must begin to file the reports required by this section in the first year it receives contributions or makes expenditures in excess of \$100 and must continue to file until the committee, fund, or party unit is terminated.

Subd. 1a. **If treasurer position is vacant.** If the position of treasurer of a principal campaign committee, political committee, political fund, or party unit is vacant, the candidate, chair of a political committee or party unit, or association officer of a political fund is responsible for filing reports required by this section.