

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

.....

September 10, 2013

Room 225

Minnesota Judicial Center

.....

MINUTES

The meeting was called to order by Vice Chair Wiener.

Members present: Beck, Peterson, Scanlon, Wiener
Member Oliver arrived during the Executive Director topics.

Others present: Goldsmith, Sigurdson, Schroeder, Larson, Pope staff; Hartshorn, counsel

MINUTES (August 6, 2013)

Grammatical changes were made to the minutes.

Member Beck's motion:	To approve the August 6, 2013, minutes as amended.
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Vote on motion:	Unanimously passed.
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ELECTION OF CHAIR AND VICE CHAIR FOR REMAINDER OF 2013 AND FOR CALENDAR YEAR 2014

Member Peterson's motion:	To elect Member Wiener as Chair and Member Beck as Vice Chair for the remainder of 2013 and for calendar year 2014.
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Vote on motion:	Unanimously passed.
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Member Wiener assumed position as Chair for remainder of the meeting.

CHAIR'S REPORT

Board meeting schedule

The next Board meeting is scheduled for Tuesday, October 1, 2013.

Executive Director Goldsmith explained that due to the timing of the September meeting staff may not have made sufficient progress on matters and suggested possibly canceling the October meeting. Mr. Goldsmith will consult with Chair Wiener at a later date.

If the October meeting is canceled the next meeting will be held on Tuesday, November 5, 2013.

EXECUTIVE DIRECTOR'S TOPICS

Executive Director Goldsmith reported on recent Board office operations.

Office operations and budget

Mr. Goldsmith informed members of his travel to Brainerd to present the new disclosure law requirements for judges. A webinar presentation will be conducted for the judicial candidates who were not able to attend the in-person session.

Executive Director Goldsmith is hoping to also do more outstate travel in October to conduct campaign finance compliance training.

Executive Director Goldsmith is currently working on the position descriptions for one full-time investigative position and one part-time clerical position. The full-time investigative position is almost complete and should be posted to the State of Minnesota's resume matching system in October. Since the Board is also an unclassified agency in the State, it has the option to post through other sources and plans to advertise the opening at local colleges. The salary range should be approximately around \$50,000 to \$65,000.

The new hardware and software to strengthen the reliability of the Board's network and information systems was purchased and configured. Full migration of the system should also be completed in October.

Disclosure Conference

Member Beck has been working with the Humphrey Center for the Study of Governance and Politics on the idea of holding a campaign finance disclosure seminar. The seminar would be for the purpose of examining what disclosure is currently absent in the financing of campaigns in Minnesota. It is meant to be an educational event and will hopefully be held prior to the next legislative session.

Larry Jacobs of the Humphrey Center has identified a foundation that is willing to finance the conference, which would be sponsored by the Center itself, not by the Board. Discussions will continue regarding the structure of the conference and the selection of presenters.

Resolution recognizing service of Andrew Luger

Member Wiener's Motion:

RESOLVED:

That the Campaign Finance and Public Disclosure Board recognizes Andrew Luger for his service from 2011 to 2013 as a member of the Board and offers this resolution in appreciation of his investment of time and energy in support of the mission and objectives of the Minnesota Campaign Finance and Public Disclosure Board.

Vote on motion: Unanimously passed.

ENFORCEMENT REPORT

Consent Items

Confirmation of the administrative termination for the following lobbyist at the request of the Lobbyist Association:

In a letter dated July 26, 2013, Brandon Rettke, director of public affairs for Education Minnesota, requests the lobbyist registration for Thomas Dooher be terminated as of July 1, 2013. Mr. Dooher is no longer representing Education Minnesota. Mr. Dooher authorized another lobbyist to report on his behalf. There are no outstanding reporting issues.

After discussion the following resolution was made:

Member Scanlon's motion: To approve the consent items.

Vote on motion: Unanimously passed.

Discussion Items

A. Waiver Requests

<u>Name of Candidate or Committee</u>	<u>Reason for Fine</u>	<u>Late Fee Amount</u>	<u>Civil Penalty Amount</u>	<u>Factors for waiver</u>	<u>Board Member's Motion</u>	<u>Motion</u>	<u>Vote on Motion</u>
Ted Daley for Senate Committee	24-hour notice	\$1,000	\$0	Ted Daley reviewed the requirements regarding 24 hour notices with his campaign staff. The treasurer missed reporting within 24 hours a \$500 contribution for a party unit.	Peterson	Reduce the fee to \$250	Unanimous
Goodhue County RPM	Year-end Report due 1/31/2013	\$175	\$0	Paul Reese became treasurer for the committee in 2011. Filed the 2011 year-end and 2012 pre-election reports on time. Staff contacted him Feb. 6, 2013, regarding the 2012 year-end report and he stated he thought it was due Feb. 21. The report was filed on Feb 11. Jeff Hommedahl, new treasurer as of March 2013, requests a waiver based on the turnover of officers of the committee and the steps taken to ensure reports are filed on time.	No motion		

Informational Items

A. Payment of a late filing fee for January 31, 2013, year-end report:

Joe Hoppe Volunteer Committee, \$400
Duane Johnson Volunteer Committee, \$375

Minn Ambulatory Surgery, \$50

B. Payment of late filing fee for special election end-cycle report:

Tama Theis for MN House, \$25

C. Payment of a late filing fee for the 2012 Annual Report of Lobbyist Principal:

All Parks Alliance, \$40
Anytime Fitness LLC, \$10
Ellingson Companies, \$5
Environment Minnesota, \$35
Gamesa Energy USA, \$30
HealthCare Compact Alliance, \$5
MN Academy of Audioology, \$55
Nanocopoeia \$10
Northern Metals LLC, \$100
Pearson, \$35
Robin Drug Corp., \$25
Roland Marketing, \$15
Rust Consulting, \$40

D. Payment of a late filing fee for a Statement of Economic Interest:

Russel Hansen, Lake of the Woods SWCD, \$70
Daniel McNamee, Mahnomen SWCD, \$30
Hartley Sandstrom, St Louis South SWCD, \$30
Ronald Thorsrud, Norman SWCD, \$30

E. Payment of a civil penalty for exceeding the party unit aggregate contribution limit:

John Pederson for Senate Committee, \$100. During 2012, the Committee accepted \$13,700 in contributions from special sources. These sources include large givers from whom the Committee accepted \$8,500, registered lobbyists from whom the committee accepted \$1,700, and political committees or political funds from which the Committee accepted \$3,430. The total amount of these contributions exceeded by \$100 the applicable limit on aggregate contributions from special sources, which for a state senate candidate was \$13,600. Senator Pederson entered into a conciliation agreement on August 9, 2013.

Frank Hornstein Volunteer Committee, \$470. During 2012, the Committee accepted \$7,135 in contributions from special sources. These sources include large givers from whom the Committee accepted \$1,710, registered lobbyists from whom the Committee

accepted \$425, and political committees or political funds from which the Committee accepted \$5,000. The total amount of these contributions exceeded by \$235 the applicable limit on aggregate contributions from special sources, which for a state representative candidate was \$6,900. Representative Hornstein entered into a conciliation agreement on August 20, 2013.

F. Deposit to the General Fund, State Elections Campaign Fund:

Cindy Pugh for Minnesota, \$230 anonymous contribution

LEGAL COUNSEL'S REPORT

Board members reviewed a memo from Counsel Hartshorn outlining the status of cases that have been turned over to the Attorney General's office. The Legal Counsel's Report is made a part of these minutes by reference.

EXECUTIVE SESSION

The Chair recessed the regular session of the meeting and called to order the Executive Session. Upon completion of the Executive Session, the regular session of the meeting was called back to order and the following items were reported from the Executive Session:

Findings and Order in the Matter of a Contribution to the (Jeanne) Poppe for the People Committee from the United Food and Commercial Workers International Union Active Ballot Club Federal Committee

The Chair reported that in its executive session, the Board made findings and issued an order in the above matter. See Findings and Order which are attached to and made a part of these minutes.

Findings and Order in the Matter of the Complaint by the Minnesota Jobs Coalition Regarding the Mark Dayton for a Better Minnesota Committee

The Chair reported that in its executive session, the Board made findings and issued an order in the above matter. See Findings and Order which are attached to and made a part of these minutes.

OTHER BUSINESS

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

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Minutes
September 10, 2013

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gary Goldsmith". The signature is fluid and cursive, with the first name "Gary" and last name "Goldsmith" clearly distinguishable.

Gary Goldsmith
Executive Director

Attachments:

Findings and Order in the Matter of a Contribution to the (Jeanne) Poppe for the People
Committee from the United Food and Commercial Workers International Union Active Ballot Club
Federal Committee
Findings and Order in the Matter of the Complaint by the Minnesota Jobs Coalition Regarding the
Mark Dayton for a Better Minnesota Committee

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

**Findings and Order in the Matter of a Contribution to the (Jeanne) Poppe for the People
Committee from the United Food and Commercial Workers International Union Active
Ballot Club Federal Committee**

Summary of the Facts

Pursuant to Minnesota Statutes section 10A.27, subdivision 13, candidates, political party units, and political committees registered with the Campaign Finance and Public Disclosure Board may not accept a contribution in excess of \$100 from an association that is not registered with the Board unless the contribution is accompanied by financial disclosure of the donating association's receipts and expenditures in the form specified by statute. Acceptance of a contribution in excess of \$100 without the required disclosure is punishable by civil penalty of up to four times the amount of the contribution over \$100. A candidate has 60 days to return a contribution after which time the contribution is deemed to be accepted. Minn. Stat. §10A.15, subd. 3.

An unregistered association that makes a contribution of more than \$100 without the required disclosure is in violation of Minnesota Statutes section 10A.27, subdivision 13 (b). Failure to provide the appropriate disclosure with a contribution of more than \$100 is punishable by civil penalty of up to \$1,000.

The 2012 Report of Receipts and Expenditures filed with the Board by the (Jeanne) Poppe for the People Committee disclosed receipt of a \$500 contribution from the United Food and Commercial Workers Council 6, a political fund registered with the Board. The report filed by the United Food and Commercial Workers Council 6 did not report a corresponding contribution.

In response to a reconciliation audit, Julie Tufte, treasurer for the (Jeanne) Poppe for the People Committee, stated, "In taking a closer look at the receipt in question, I noticed it was actually from 'United Food and Commercial Workers International Union, CLC' out of Washington DC. I incorrectly attributed it to 'United Food and Commercial Workers Council 6'."

In a letter dated August 19, 2013, in response to staff inquiry, Anthony Perrone, treasurer of the United Food and Commercial Workers International Union Active Ballot Club, stated the \$500 contribution was made by the United Food and Commercial Workers International Union Active Ballot Club (ABC Federal). He further states, "This was an inadvertent administrative error by ABC Federal's connected sponsoring organization, the United Food and Commercial Workers International Union ("UFCW")." He states the intent was to make this contribution from the similarly named fund, the UFCW Active Ballot Club, which is registered with the Board.

This matter was considered by the Board in executive session on September 10, 2013. The Board's decision is based on the correspondence and information received from Julie Tufte, Anthony Perrone, and on Board records.

Based on the information outlined in the above Summary of the Facts and Relevant Statutes, the Board makes the following:

Findings

1. The (Jeanne) Poppe for the People Committee violated Minnesota Statutes section 10A.27, subdivision 13, when it accepted a contribution in excess of \$100 from an unregistered association without receiving the appropriate disclosure with the contribution.
2. The United Food and Commercial Workers International Union Active Ballot Club federal committee violated Minnesota Statutes section 10A.27, subdivision 13 (b), when it made a contribution in excess of \$100 to the (Jeanne) Poppe for the People Committee without providing the required disclosure with the contribution.
3. The violations by the (Jeanne) Poppe for the People Committee and the United Food and Commercial Workers International Union Active Ballot Club federal committee were not intentional or done with the intent to circumvent the provisions of Chapter 10A.

Order

1. The Board imposes a civil penalty of \$400, one times the amount by which the contribution exceeded \$100, on the (Jeanne) Poppe for the People Committee for accepting a contribution from an unregistered association without the disclosure required by Minnesota Statutes section 10A.27, subdivision 13.
2. The (Jeanne) Poppe for the People Committee is directed to forward to the Board payment of the civil penalty by check or money order payable to the State of Minnesota within thirty days of receipt of this order.
3. The (Jeanne) Poppe for the People Committee is directed to refund \$400 to the United Food and Commercial Workers International Union Active Ballot Club federal committee and forward to the Board a copy of the check used to return the excess contribution within thirty days of receipt of this order.
4. The Board imposes a civil penalty of \$400, one times the amount that the contribution exceeded \$100, on the United Food and Commercial Workers International Union Active Ballot Club federal committee for making a contribution in excess of \$100 without providing the disclosure required by Minnesota Statutes section 10A.27, subdivision 13 (b).
5. The United Food and Commercial Workers International Union Active Ballot Club federal committee is directed to forward to the Board payment of the civil penalty by check or money order payable to the State of Minnesota within thirty days of receipt of this order.
6. If the (Jeanne) Poppe for the People Committee or the Commercial Workers International Union Active Ballot Club federal committee 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.

7. 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 the refund of the excess contribution and payment of the civil penalties imposed herein, this matter is concluded.

Dated: September 10, 2013

Deanna Wiener, Vice Chair
Campaign Finance and Public Disclosure Board

Relevant Statute

Minnesota Statutes section 10A.27, subdivision 13. Unregistered association limit; statement; penalty. (a) The treasurer of a political committee, political fund, principal campaign committee, or party unit must not accept a contribution of more than \$100 from an association not registered under this chapter unless the contribution is accompanied by a written statement that meets the disclosure and reporting period requirements imposed by section 10A.20. This statement must be certified as true and correct by an officer of the contributing association. The committee, fund, or party unit that accepts the contribution must include a copy of the statement with the report that discloses the contribution to the board. This subdivision does not apply when a national political party contributes money to its affiliate in this state.

(b) An unregistered association may provide the written statement required by this subdivision to no more than three committees, funds, or party units in a calendar year. Each statement must cover at least the 30 days immediately preceding and including the date on which the contribution was made. An unregistered association or an officer of it is subject to a civil penalty imposed by the board of up to \$1,000, if the association or its officer:

- (1) fails to provide a written statement as required by this subdivision; or
- (2) fails to register after giving the written statement required by this subdivision to more than three committees, funds, or party units in a calendar year.

(c) The treasurer of a political committee, political fund, principal campaign committee, or party unit who accepts a contribution in excess of \$100 from an unregistered association without the required written disclosure statement is subject to a civil penalty up to four times the amount in excess of \$100.

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

**Findings and Order in the Matter of the Complaint by the Minnesota Jobs Coalition
Regarding the Mark Dayton for a Better Minnesota Committee**

The Complaint

On May 7, 2013, the Campaign Finance and Public Disclosure Board (the Board) received a complaint from Kevin Magnuson, attorney, representing the Minnesota Jobs Coalition (MJC) regarding the Mark Dayton for a Better Minnesota Committee (the Committee). In his complaint Mr. Magnuson states:

The Minnesota Jobs Coalition...files this complaint against “Mark Dayton For A Better Minnesota,” the campaign committee for governor Mark Dayton...for violating Minnesota Statute...by failing to disclose unpaid campaign travel expenses in its year-end Report of Receipts and Expenditures for 2012. Specifically, the Dayton Campaign failed to report a \$2,802 obligation it incurred when on October 24, 2012 Governor Dayton flew on a State of Minnesota airplane to Bemidji and then to International Falls to attend campaign events. Instead, it wrongly and misleadingly listed the 2012 expense as a January 3, 2013 travel reimbursement to the State on its 2013 quarterly report to the Minnesota State Campaign Finance and Public Disclosure Board... The Dayton Campaign also has failed to report additional obligations to reimburse the State of Minnesota for other campaign uses of the State’s aircraft in 2012.

Mr. Magnuson elaborated on the Committee’s alleged failure to timely report the October 24, 2012, travel cost by providing:

During the 2012 legislative elections, Governor Dayton and the Dayton Campaign committee campaigned to elect DFL legislators. On October 24, 2012, Governor Dayton flew on the State’s aircraft to Bemidji, where, according to the *Minneapolis Star Tribune*, he conducted some unspecified “state-related business” but also attended a DFL rally... He then flew on the State’s aircraft to International Falls for the sole purpose of attending a DFL fish-fry... [A] Dayton Campaign spokesperson...initially stated that the campaign would reimburse the State for half of the \$3,312 it cost the State for the Governor to use the aircraft. The next day, the Dayton Campaign told the *Star Tribune* that Governor Dayton’s use of the State’s plane was actually 80% campaign-related and that it would reimburse the State of Minnesota \$2,118 for the flights...

However, the Dayton Campaign failed to report this State aircraft expense in its year-end Report of Receipts and Expenditures for 2012...The year-end report represented that Governor Dayton had no unpaid campaign expenditures whatsoever for the year

2012. The Dayton Campaign subsequently filed three amended reports for 2012...none listed the trip on the State's aircraft...

In a 2013 first quarter report, filed with the Board on April 15, 2013, the Dayton Campaign reported the...travel reimbursement expense for the first time. However, rather than amend their 2012 reports, the campaign listed the \$2,118 expense and another travel reimbursement to the State...as January 3, 2013 expenditures...The Dayton Campaign's 2013 filing is troubling because it falsely reports that the expenses related to the 2012 trip occurred in January 2013. Moreover, the Dayton Campaign apparently paid the October 24, 2012 obligation to the State on January 3, 2013 and therefore clearly was aware of the expenditure when they filed their 2012 year-end report...

The complaint further alleges that the Committee failed to report two other 2012 travel expenses related to the use of a state airplane. Mr. Magnuson specified the two trips he believes the Committee failed to report as campaign expenditures:

On September 28, 2012, Governor Dayton traveled to Willmar on a state-owned aircraft... The *West Central Tribune*...reported that Governor Dayton met with a dozen community members to discuss economic development and then later held a campaign event for Willmar-area DFL candidates. ...Because only half of this trip constituted official state business, the Dayton Campaign owes the State half of the cost flying on the State's aircraft, which MJC estimates to be at least \$642.00.

On October 20, 2012, Governor Dayton traveled to the Brainerd Lakes area on state-owned aircraft... According to the Brainerd Dispatch, Governor Dayton campaigned for Brainerd-area DFL candidates on that date...Governor Dayton also met with local leaders to discuss tourism... Because only half of this trip arguably constituted official state business, the Governor's campaign owes the State at least \$768.00.

The Dayton Campaign should have itemized and reported the paid or unpaid expenses of these two trips in its 2012 reports.... It did not. MJC believes that the appropriate reimbursement to the State of Minnesota when the Governor uses the state-owned aircraft to attend a campaign event while also arguably conducting state business in the same location should be half the cost of the flight. The Dayton Campaign should have listed these expenses on his 2012 campaign finance reports.

In support of his allegations Mr. Magnuson supplied copies of the newspaper stories referenced in the complaint, flight logs for the use of the state plane described in the complaint, a Minnesota Department of Transportation document on calculating costs for using a state-owned aircraft, copies of reports and amendments filed by the Committee in 2012, and a voluntary campaign finance statement for the first quarter of 2013 filed by the Committee.

Responses and Amended Reports from the Mark Dayton for a Better Minnesota Committee

Unknown to Mr. Magnuson, the Committee filed an amendment to the 2012 year-end Report of Receipts and Expenditures on May 6, 2013. The amendment, in the form of a letter from Shelli Hesselroth, treasurer, states:

The Committee received two invoices in December 2012 that were inadvertently omitted from the unpaid obligations schedule on the year-end report. Please amend the report to include these two bills as unpaid obligations... State of Minnesota...12/19/2012 \$684.00 Purpose: Air Travel...12/19/2012 \$2,118.00 Purpose: Air Travel.

The Board notified Governor Dayton of the complaint by letter dated May 8, 2013. Board staff was notified that Charles Nauen, attorney, would be representing the Committee for the purposes of the Board investigation. Because of difficulty in obtaining information needed to respond to the complaint Mr. Nauen asked for additional time to respond by e-mail dated May 31, 2013.

Mr. Nauen responded to the complaint by letter dated July 30, 2013. Mr. Nauen states:

The Complaint addresses three trips, each of which included an official event and one or more campaign-related events. ...the campaign has instituted a policy of reimbursing the State for a portion of the travel costs with the amount of the reimbursement depending upon the proportion of official and campaign related events...

The October 20, 2012, trip to Brainerd/Nisswa referenced in the Complaint included both an official event and a campaign-related event. The campaign received and paid an invoice for \$684 which is one-half of the costs of this trip. As the Complaint acknowledges, the invoice was paid on January 3, 2013 and the payment is reflected in the First Quarter 2013 Report.

The October 24, 2012, trip referenced in the Complaint included an official event and a campaign-related event in Bemidji and a campaign-related event in International Falls. The campaign received and paid an invoice for \$2,118 which is one-half of the costs of a round trip to Bemidji plus all of the additional costs for the trip to International Falls. ...the invoice was paid on January 3, 2013 and the payment is reflected on the First Quarter 2013 Report.

The Governor also travelled to Willmar for an official event and campaign-related event on September 28, 2012. The campaign was not invoiced for this trip. The campaign now has received an invoice for \$612.00 for its share of this trip which will be paid and reported on its Third Quarter 2013 Report.

The Complaint also alleges that the expenses for all of these trips should have been reflected as outstanding debts on the Year-End 2012 Report. The Year-End 2012 report was amended to reflect the Brainerd/Nisswa trip and the Bemidji/International Falls [trip] before the complaint was received.... The Year-End 2012 report will be similarly amended to reflect the Willmar trip.

On August 1, 2013, Ms. Hesselroth filed a letter amendment to the Committee's 2012 year-end Report of Receipts and Expenditures. In the amendment Ms. Hesselroth states:

The Committee recently received an invoice for travel in September 12, 2012. The invoice was not received in 2012 and, therefore, was not included in the unpaid obligations schedule on the year-end report... 9/12/2012 \$612.00 Purpose: Air Travel...State of Minnesota.

Board staff noted that the amounts paid by the Committee for use of a state airplane were slightly different than the amounts owed as calculated by the complainant. To resolve the discrepancy staff asked Mr. Nauen for copies of the invoices received by the Committee for the trips. Additionally, Mr. Nauen was asked to further explain why the Committee did not report the trips as unpaid bills on the initial filing of the 2012 year-end Report of Receipts and Expenditures.

Mr. Nauen provided copies of the invoices received by the Committee for use of the state airplane. Two of the invoices were issued on December 19, 2012; the invoice for the Willmar trip was issued to the Committee on July 30, 2013.

In explanation of why the cost for use of the state airplane was not included in the Committee's 2012 year-end Report of Receipts and Expenditures Mr. Nauen provided:

The amounts were not reported as unpaid obligations on the Year-End 2012 Report due to inadvertent error. The first two invoices...were received in late-December 2012 and paid promptly in early January, 2013....This error likely is due to the fact that the invoices were paid in the early days of 2013 and well before Year-End 2012 report was submitted...The final invoice...was not received until this week and, for that reason, was not included as an unpaid obligation on the Year-End 2012 Report.

The Board reviewed the complaint and status of the investigation and then laid the matter over at its June 10, 2013, and August 6, 2013, meetings.

Board Analysis

In his complaint Mr. Magnuson correctly identified that the 2012 year-end Report of Receipts and Expenditures filed by the Committee on January 31, 2013, and as amended through March 11, 2013, failed to disclose the three trips discussed above. The trips occurred in 2012, and are acknowledged by the Committee to have been, in part, campaign expenditures for which the Committee was responsible. The Committee does not dispute the conclusion that the cost of the trips should have been disclosed on the Committee's 2012 year-end Report of Receipts and Expenditures.

The question for the Board then becomes why the cost of the trips were not included in the Committee's report. Reports to the Board are certified by the treasurer as true and complete; a treasurer who deliberately omitted information or provided false information on a report is subject to a civil penalty imposed by the Board of up to \$3,000 and is also subject to criminal prosecution for a gross misdemeanor. These penalties do not apply if required information was inadvertently left off of a report, or if the report is inaccurate because the treasurer did not understand one or more of the reporting requirements of Chapter 10A.

Based on the responses to the complaint provided by Mr. Nauen and the amendments filed by Ms. Hesselroth, the Board concludes there is no basis to believe that the costs of the trips were deliberately left off the report. Instead, the record before the Board points to both inadvertent human error and a misunderstanding of the reporting requirements for campaign expenditures.

The inadvertent omissions occurred when the treasurer left off the two invoices that were received in December of 2012 for use of a state airplane. The Board accepts that the omission was inadvertent because, as documented in the complaint, a Committee spokesperson provided information to the media on the cost of the Bemidji-International Falls trip when it occurred, and also provided information on how the reimbursement was calculated. Given that the Committee publically acknowledged the expenditures in October there would be no reason to hide the expenditures invoiced in December by deliberately omitting them from the year-end report. The Board also notes that the cost of the Bemidji-International Falls trip, and the Brainerd-Nisswa trip were disclosed by the Committee in a voluntary disclosure of Committee activity provided to the Board in April of 2013.

The reason stated for omitting the Willmar trip from the 2012 year-end report, because the Committee did not receive an invoice until July of 2013, indicates a misunderstanding of the reporting requirements for unpaid expenditures. Chapter 10A provides that a committee incurs an expenditure on the date that the committee becomes obligated to pay an expense. Obligations that are incurred by a committee during the time period of a report must be disclosed, even if an invoice for an unpaid expenditure has not been received.¹

In this case the Committee incurred the costs of the Governor traveling on a state airplane for purposes partially related to campaigning during September and October of 2012. At the time the trips occurred the treasurer should have been informed of the expenditures with information on the date, vendor, purpose of the expenditures, and the amount of the expenditures. If the exact costs of the trips were unknown on the date they occurred then a best estimate for the obligation should have been provided to the treasurer. The treasurer should have used the best estimate of the cost to report the expenditure in lieu of the invoice for the Willmar trip that was not received by the reporting deadline.

Unintentional reporting errors that are corrected by amendments to previously filed reports are not penalized under Chapter 10A as long as the amendments are filed promptly after the treasurer becomes aware of an error. In the present case, the Committee timely filed the amendments needed to correct the 2012 reporting errors identified by the complainant.

¹ As required by Minnesota Statutes sections 10A.01, subdivision 9, 10A.20, subdivision 3(i), and Minnesota Rules, part 4503.1800, subpart 2.

Based on the above Review and Analysis and the relevant statutes, the Board makes the following:

Findings

1. The Mark Dayton for a Better Minnesota Committee filed a 2012 year-end Report of Receipts and Expenditures that omitted campaign expenditures that were incurred during the reporting year.
2. The reporting errors of the Mark Dayton for a Better Minnesota Committee were the result of mistakes by the treasurer.

Conclusion

1. At the time the Mark Dayton for a Better Minnesota Committee filed the 2012 year-end Report of Receipts and Expenditures the report was incomplete, resulting in a violation of the reporting requirements of Minnesota Statutes section 10A.20. The violation was corrected by amending the report.
2. The omissions on the 2012 year-end report were not knowingly made within the meaning of Minnesota Statutes section 10A.025, subd. 2, and therefore no violation of that statute results.
3. No civil penalty is applicable under the facts and conclusion of this mater.

Based on the above Findings and Conclusion, the Board issues the following:

Order

The Board investigation of this matter is concluded and hereby made a part of the public records of the Board pursuant to Minnesota Statutes section 10A.02, subdivision 11.

Dated: September 10, 2013

Deanna Wiener, Vice Chair
Campaign Finance and Public Disclosure Board

Relevant Statutes

Minnesota Statutes section 10A.01

Subd. 9. Campaign expenditure. "Campaign expenditure" or "expenditure" means a purchase or payment of money or anything of value, or an advance of credit, made or incurred for the purpose of influencing the nomination or election of a candidate or for the purpose of promoting or defeating a ballot question.

An expenditure is considered to be made in the year in which the candidate made the purchase of goods or services or incurred an obligation to pay for goods or services.

An expenditure made for the purpose of defeating a candidate is considered made for the purpose of influencing the nomination or election of that candidate or any opponent of that candidate....

Subd. 3. Contents of report. (a) The report must disclose the amount of liquid assets on hand at the beginning of the reporting period.

(i) The report must disclose the amount and nature of an advance of credit incurred by the reporting entity, continuously reported until paid or forgiven. If an advance of credit incurred by the principal campaign committee of a candidate is forgiven by the creditor or paid by an entity other than that principal campaign committee, it must be reported as a donation in-kind for the year in which the advance of credit was made.

4503.1800 REPORTING REQUIREMENTS.

Subp. 2. Expenditures and noncampaign disbursements. Legislative, statewide, and judicial candidates, party units, political committees and funds, and committees to promote or defeat a ballot question must itemize expenditures and noncampaign disbursements that in aggregate exceed \$100 in a calendar year on reports submitted to the board. The itemization must include the date on which the committee made or became obligated to make the expenditure or disbursement, the name and address of the vendor that provided the service or item purchased, and a description of the service or item purchased. Expenditures and noncampaign disbursements must be listed on the report alphabetically by vendor.