

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

.....
January 15, 2016

Room G-31

Minnesota Judicial Center

.....
MINUTES

The meeting was called to order by Chair Sande.

Members present: Beck, Flynn, Leppik, Oliver, Rosen, Sande

Others present: Goldsmith, Sigurdson, Fisher, Pope, staff; Hartshorn, counsel

The meeting did not strictly follow the order of business set forth in the agenda.

MINUTES (December 1, 2015)

After discussion, the following motion was made:

Member Leppik's motion: To approve the December 1, 2015, minutes as drafted.

Vote on motion: Unanimously passed.

CHAIR'S REPORT

Board meeting schedule

The Board meeting scheduled for February 2, 2016, is cancelled. The next Board meeting is scheduled for Tuesday, March 1, 2016. Member Flynn has a conflict with the March meeting date. The Executive Director will poll members to determine if the March meeting date can be adjusted so that all members are able to attend.

Resolution recognizing George Beck's service to the Board

Chair Sande read a proposed resolution recognizing member Beck for his service.

After discussion, the following motion was made:

Member Sande's motion: To adopt the following resolution:

RESOLVED, that the Campaign Finance and Public Disclosure Board recognizes George Beck for his service from 2012 to 2016 as a member of the Board and offers this resolution in

appreciation for 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.

Opening statement by new chair and discussion of the possibility of streaming Board meetings online

Chair Sande said that one of his goals as chair was to increase the visibility of the Board in general. Chair Sande told members that in furtherance of this goal, he had spoken with the executive director about streaming Board meetings on the website. Members discussed the merits of video streaming versus audio streaming, potential safeguards to ensure that nothing confidential would inadvertently be made public; and other considerations related to broadcasting meetings. Members asked staff to research video and audio streaming options and to report to the Board at the next meeting.

EXECUTIVE DIRECTOR TOPICS

Status of office operations

Mr. Goldsmith told members that since the last meeting, staff had been busy with questions and mailings related to the campaign finance, lobbyist, and economic interest reports due in January. Staff also had conducted two training sessions and Mr. Goldsmith had spoken to a League of Women Voters group.

Report on staff attendance at COGEL conference

Mr. Sigurdson reported that he and Mr. Fisher had attended the Council on Governmental Ethics Laws (COGEL) conference in December. Mr. Sigurdson told members that attending COGEL gave staff the opportunity to meet with peers from other states and to hear about their experiences. Mr. Sigurdson briefed members on two emerging issues that were discussed at the conference. One issue arises when a third party takes a video clip verbatim from a candidate's website and uses the clip in independent expenditure communications. The second issue was a proposal to resolve the problem of dark money in elections by removing all limits on contributions to political parties. Mr. Sigurdson said that Minnesota already was one of the jurisdictions that has no limits on the amount of contributions to political parties.

Website evaluations by the Campaign Finance Institute

Mr. Goldsmith presented members with a memorandum on this issue that is attached to and made a part of these minutes. Mr. Goldsmith told members that the Campaign Finance Institute (CFI) had evaluated the states' campaign finance websites. The CFI had concluded that the Board's website was the top site among the 47 evaluated in terms of usability and ability to complete the tasks that were evaluated.

Website redevelopment update and demonstration

Mr. Goldsmith told members that a prototype of the redeveloped website was nearly ready to show test users. Mr. Goldsmith showed members the proposed new homepage for the Board and the new menu system. Mr. Goldsmith also showed the proposed search pages and how results would be displayed. Mr. Goldsmith stated that he was less confident about the project's timeline and now believed that the April completion date was too aggressive. Mr. Goldsmith said that June or July was a more realistic completion date.

Budget report

Mr. Goldsmith presented members with a budget report that is attached to and made a part of these minutes. Mr. Goldsmith told members that the Board and its projects were on budget and that there were sufficient funds in the budget for the website project.

ADVISORY OPINION

Advisory Opinion 441 – Gift prohibition as applicable to the Minnesota Zoo

Mr. Goldsmith presented members with a memorandum on this matter that is attached to and made a part of these minutes. Mr. Goldsmith told members that this advisory opinion request was public by consent of the requester. Mr. Goldsmith stated that the revised staff draft of the proposed advisory opinion concluded that the gift prohibition did not apply to the Zoo because it was a state agency. John Apitz, the Zoo's contract lobbyist, and Jane Prohaska, the Zoo's public affairs director, appeared on behalf of the Zoo. Mr. Apitz and Ms. Prohaska told members that the Zoo agreed with the analysis in the revised staff draft.

After discussion, the following motions were made:

Member Rosen's motion:	To amend the revised staff draft of the proposed advisory opinion 1) to strike the heading on page 3 stating, "The proposed event results in a gift to officials;" 2) to strike the third and fourth paragraphs under that heading on page 3; 3) to move the heading on page 3 stating, "Is the Zoo a principal?" up so that it is immediately before the quotation from Minnesota Statutes section 10A.071, subdivision 2, on page 3; and 4) to replace the last sentence on page 4 with language stating "Because the Zoo is not a principal, the transactions considered in this opinion are not prohibited gifts to public officials."
------------------------	--

Vote on motion:	Unanimously passed.
-----------------	---------------------

Member Rosen's motion: To adopt the proposed advisory opinion as amended.

Vote on motion: Unanimously passed.

EXECUTIVE SESSION

The Chair recessed the regular session of the meeting and called to order the executive session. Upon recess of the executive session, the regular session of the meeting was called back to order and the Chair had the following item to report into regular session:

Amended findings regarding the Evan Rapp Volunteer Committee

The following business then was conducted.

ADVISORY OPINIONS

Advisory Opinion 442 – Costs of constituent services

Mr. Sigurdson presented members with a memorandum regarding this matter that is attached to and made a part of these minutes.

After discussion, the following motion was made:

Member Beck's motion: To lay the matter over to the next meeting.

Vote on motion: Unanimously passed.

Partial revocation of Advisory Opinion 400

Mr. Goldsmith presented members with a memorandum regarding this matter that is attached to and made a part of these minutes.

After discussion, the following motion was made:

Member Rosen's motion: To lay the matter over to the next meeting.

Vote on motion: Unanimously passed.

ENFORCEMENT REPORT

A. Discussion Items

1. Request to Withdraw Lobbyist Registration – Audrey Britton

Mr. Fisher told members that on October 29, 2015, Audrey Britton had registered with the Board as a lobbyist on behalf of Small Business Minnesota. Mr. Fisher said that because Ms. Britton was not paid for her efforts as a lobbyist, she was not required to be registered with the Board.

After discussion, the following motion was made:

Member Beck's motion: To grant Audrey Britton's request to withdraw her registration as a lobbyist on behalf of Small Business Minnesota.

Vote on motion: Unanimously passed.

2. Request for Agreement and Stay/Waiver of Late Filings Fees and Civil Penalties – Cedar Towing and Auction

Mr. Fisher told members that Cedar Towing and Auction was a principal association that accrued \$3,000 in late filing fees and civil penalties based on the untimely filing of its 2014 principal's report and a required amendment to that report. The matter was referred to the attorney general's office on October 7, 2015. Mr. Fisher said that both reports had now been filed and that Cedar Towing also had notified the Board that it had terminated its relationship with its lobbyist. Mr. Fisher said that Cedar Towing and Auction was asking the Board to approve the proposed agreement that it had entered into with the executive director and to stay and then waive the late filing fees and civil penalties that it had accrued according to that agreement. The proposed agreement is attached to and made a part of these minutes.

After discussion, the following motion was made:

Member Flynn's motion: To grant Cedar Towing and Auction's request for an agreement and a stay and later waiver of the late filing fees and civil penalties according to that agreement.

Vote on motion: Unanimously passed.

B. Waiver requests

<u>Name of Candidate or Committee</u>	<u>Late Fee & Civil Penalty Amount</u>	<u>Reason for Fine</u>	<u>Factors for waiver</u>	<u>Board Member's Motion</u>	<u>Motion</u>	<u>Vote on Motion</u>
Benjamin Kruse	\$5,600	Various	Mr. Kruse's campaign account was garnished of \$4,074.30 for personal reasons. Mr. Kruse has recovered \$3,974.30 of the garnishment. On previous reports, Mr. Kruse has accrued \$5,600 in various late filing fees and civil penalties. He now desires to terminate. Staff recommends that the Board administratively terminate the committee and waive any remaining late filing fees and civil penalties conditioned upon Mr. Kruse forwarding to the Board the \$3,974.30 in his committee's account to be applied to the amount currently outstanding.	Member Leppik	To administratively terminate the committee and waive the remaining late fees conditioned upon the forwarding of \$3,974.30 to the Board.	Passed unanimously.

Informational Items

A. Payment of a late filing fee for 2011 Report of Receipts and Expenditures:

Timothy Nieminen for House, \$125 (revenue recapture)

B. Payment of a late filing fee for 2014 Year-end Report of Receipts and Expenditures:

Brandon Anderson SD 6, \$75 (revenue recapture)

C. Payment of a late filing fee for 2014 Annual Report of Lobbyist Principal:

Independent Pharmacy Cooperative, \$25

D. Payment of a civil penalty for misuse of committee funds:

Tim Manthey, \$200 November payment

E. Payment of a civil penalty for exceeding the special source aggregate contribution limit:

David Hann for State Senate, \$12.50
 Matt Schmit for Senate, \$856.25

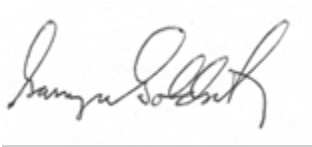
LEGAL COUNSEL'S REPORT

Mr. Hartshorn had nothing to add to the report given to members that is attached to and made a part of these minutes.

OTHER BUSINESS

There was no other business to report.

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



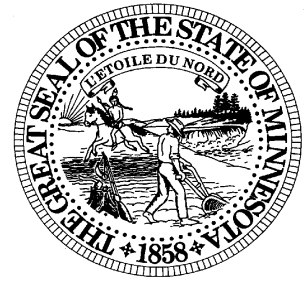
Gary Goldsmith
Executive Director

Attachments:

- Memorandum regarding website evaluations by the Campaign Finance Institute
- Budget report
- Memorandum regarding Advisory Opinion 441
- Proposed Advisory Opinion 441 as revised by staff
- Memorandum regarding Advisory Opinion 442
- Proposed Advisory Opinion 442
- Memorandum regarding partial revocation of Advisory Opinion 400
- Proposed agreement regarding Cedar Towing and Auction
- Legal report
- Amended findings regarding the Evan Rapp Volunteer Committee

Minnesota

*Campaign Finance and
Public Disclosure Board*



Date: January 8, 2016

To: Board members

From: Gary Goldsmith, Executive Director

Telephone: 651-539-1190

Re: Current website

I have previously reported to the Board that when we surveyed web users and received more than 300 responses, a significant number of them said we should leave the site alone; that it was providing everything they needed. I have also suggested, in light of criticism of our current site, that at least some of the critics have not taken the time to learn how to use the site and have not sought assistance from staff.

Unknown to us, this past year the Campaign Finance Institute evaluated websites from 47 states, including ours. They used paid evaluators who had no particular experience with campaign finance sites. They set up certain tasks and asked the users to evaluate their ability to accomplish those tasks on each site. The parameters of the evaluation are more specifically explained in the attached materials.

The first attachment is the presentation that CFI gave at the 2015 Council on Governmental Ethics Laws (COGEL) conference, which was attended by Mr. Sigurdson and Mr. Fisher.

The second attachment is the actual results in statistical terms. The final attachments is a list of comments by the reviewers who used Minnesota's site.

The main conclusion of the evaluation is that Minnesota has the top site among the 47 states evaluated, at least in terms of usability and ability to complete the tasks that were evaluated. I am proud of our staff, all of whom have input into the site.

As we continue the redesign of our site, I continually emphasize to our designers and our staff that the redesign should not destroy the things that users already find positive about the site. Although we will greatly improve functionality as well as the look and feel of the site, we still want to preserve simple options that will allow even unsophisticated web users to navigate to the information they want.

With respect to the usability issues reflected in the comments, I expect them all to be addressed in the redesign.

Attachments:

CFI website usability presentation
CFI website usability results
Minnesota feedback



MANAGER'S FINANCIAL REPORT

Run DateTime: 1/15/2016 7:48 AM
 Source Report #: KKK002
 As of Date: 01/15/2016

Selection Criteria: Budget Period - 2016, Fund - 1000 to 1000, DeptID - G9130000 to G9130000, AppropID - G911CFB to G911WEB

Break On: Budget Period, Fund

Budget Period:	2016	Fund:	1000	DeptID:	RANGE	AppropID:	RANGE
			General		G9130000 to G9130000		G911CFB to G911WEB

Remaining Payroll Projection	Full-Time (41000):	\$368,993.71	Part-Time (41030):	\$33,831.73	Total:	\$402,825.44
------------------------------	--------------------	--------------	--------------------	-------------	--------	--------------

Account Class and Description	Current Budget	Pre-Encumbered	Encumbered/Committed	Expended	Unobligated	Unexpended
41000 Full Time - Salary	727,526.00	0.00	376,720.17	350,805.83	0.00	376,720.17
41030 Part-Time-Seasonal-Labor Serv	66,812.00	0.00	44,502.95	22,309.05	0.00	44,502.95
41070 Other Employee Cost	4,400.00	0.00	2,420.00	1,980.00	0.00	2,420.00
41100 Space Rental And Utilities	40,000.00	0.00	9,872.49	29,617.47	510.04	10,382.53
41110 Printing And Advertising	2,750.00	0.00	1,534.38	426.00	789.62	2,324.00
41130 Prof-Tech Serv-Outside Vend	8,400.00	0.00	0.00	0.00	8,400.00	8,400.00
41145 IT/ProfTech O/S Vendor	200,000.00	0.00	79,998.50	90,801.50	29,200.00	109,198.50
41150 Computer and System Services	5,000.00	0.00	0.00	946.30	4,053.70	4,053.70
41155 Communications	10,200.00	0.00	9,433.71	566.29	200.00	9,633.71
41160 Trav-Sub-InState-Border Comm	3,000.00	0.00	2,146.42	822.58	31.00	2,177.42
41170 Trav/Sub-OutOfState-BorderComm	5,000.00	0.00	0.00	3,351.56	1,648.44	1,648.44
41180 Employee Development	6,800.00	0.00	20.00	2,780.00	4,000.00	4,020.00
41190 State Agcy-Prov Prof-Tech Serv	4,000.00	0.00	4,000.00	0.00	0.00	4,000.00
41196 Centralized IT Services	9,350.00	0.00	3,922.22	3,577.78	1,850.00	5,772.22
41300 Supplies	5,050.00	0.00	2,103.33	1,883.65	1,063.02	3,166.35
41400 Equipment	3,525.00	0.00	1,751.66	1,721.78	51.56	1,803.22
41500 Repairs To Equip & Furn	2,000.00	0.00	1,209.45	854.09	-63.54	1,145.91
43000 Other Operating Costs	129,123.55	0.00	1,281.00	102,455.55	25,387.00	26,668.00
47060 Equipment-Capital	25,000.00	0.00	0.00	0.00	25,000.00	25,000.00
47160 Equipment-Non Capital	8,500.00	0.00	0.00	855.01	7,644.99	7,644.99
Total	1,266,436.55	0.00	540,916.28	615,754.44	109,765.83	650,682.11
Report Total	1,266,436.55	0.00	540,916.28	615,754.44	109,765.83	650,682.11



MANAGER'S FINANCIAL REPORT

Run Date/Time: 1/15/2016 7:52 AM
 Source Report #: KK002
 As of Date: 01/15/2016

Selection Criteria: Budget Period - 2016, Fund - 1000 to 1000, DeptID - G9J30000 to G9J30000, AppropID - G9J1WEB to G9J1WEB

Break On: Budget Period, Fund

Budget Period: 2016	Fund: 1000	DeptID: RANGE	AppropID: RANGE
	General	G9J30000 to G9J30000	G9J1WEB to G9J1WEB

Remaining Payroll Projection	Full-Time (41000): \$0.00	Part-Time (41030): \$0.00	Total: \$0.00
-------------------------------------	----------------------------------	----------------------------------	----------------------

Account Class and Description	Current Budget	Pre-Encumbered	Encumbered/Committed	Expended	Unobligated	Unexpended
41145 IT/Prof/Tech O/S Vendor	150,000.00	0.00	59,198.50	90,801.50	0.00	59,198.50
41150 Computer and System Services	0.00	0.00	0.00	0.00	0.00	0.00
Total	150,000.00	0.00	59,198.50	90,801.50	0.00	59,198.50
Report Total	150,000.00	0.00	59,198.50	90,801.50	0.00	59,198.50

**Campaign Finance and Public Disclosure Board
FY 2016 Budget (Spending Plan)**

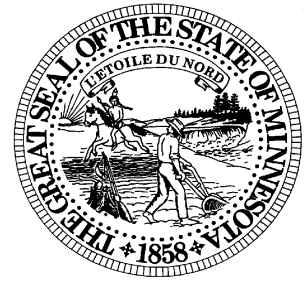
Account	Description	General Fund Budget	Change	Adjusted budget	
41000	Full-time Salary/Fringe	727,526			
41030	Part-time/Seasonal/Labor Service Salary/Fringe	66,812			
41050	Overtime	0			
41070	Other Employee Cost (Workers comp admin, Board per diem)	4,400			
41100	Space Rental	40,000			
41110	Printing & Advertising (Letterhead, env., State Register)	3,500	-750	2,750	Statute books funded in supplies budget
41130	Professional/Technical Services	8,400			
41145	IT Professional/Technical Services	50,000			
41150	Computer Systems and Services (Software, security, etc.)	5,000			
41155	Communications (Admin - Central Mail)	10,200			
41160	In-State Travel (Board and staff mileage)	3,000			
41170	Out-of-State Travel (COGEL Conference)	5,000			
41180	Employee Development (COGEL conference, staff training)	6,800			
41190	State Agency Provided P/T Svs - OAH Rules	4,000			
41196	Centralized IT Services (MN.IT - email, hosting, web access, telephone service)	9,350			
41300	Supplies	2,800	2,250	5,050	printing statute books - \$750 3 chairs - 1500
41400	Equipment Rental (photocopier)	3,225	300	3,525	higher copier costs plus water cooler rental
41500	Repairs & Maintenance (Copier maintenance contract)	2,000			
43000	Other Operating Costs (anticipated carry forward)	26,987	-300	26,687	transfer to equipment rental
47060	Equipment -Capital (over \$5K) (Replace storage array)	25,000			
47160	Equipment - Non Capital (under \$5K)	10,000	-1,500	8,500	transfer to supplies for chairs
	Expenditure total	1,014,000			
	Carry forward	0			
	MnGEO project				
	Total	1,014,000	0		
	Appropriation	1,014,000			
	Return to state				

Information Technology

		Budget	Encumbered	Expended	Available
MnGeo	Odyssey Fund (FY 15 \$)	22,400	22,400	4,213	18,187
G9J1WEB	FY 15 carry forward	150,000			
	Information Architects		25,000	14,068	10,933
	Avallo		125,000	55,971	69,029
MnGeo / WEB totals		172,400	172,400	74,252	98,149
G9J1CFB	41145 - IT prof/tech	50,000			
	41145 -Information Architects		15,800	0	15,800
	41145 - Concurrency		5,000	0	5,000
	41145-unencumbered		29,200	0	29,200
	43000 - Other operating	26,687	0		26,687
	47160 - Equipment non capital	8,500	0		8,500
	47060 - equipment capital	25,000	0		25,000
	41130 - Prof tech	8,400	0		8,400
G9J1CFB Totals		118,587	50,000		118,587
Grand total		290,987	222,400	74,252	216,736

Minnesota

*Campaign Finance and
Public Disclosure Board*



Date: January 7, 2016

To: Board members

From: Gary Goldsmith, Executive Director

Telephone: 651-539-1190

Re: Advisory opinion 441 – Minnesota Zoo

Members will recall from previous meetings that the Zoo asked for an opinion as to whether it could continue its traditional Legislators' Day at the Zoo and not be in violation of the gift prohibition of Minnesota Statutes section 10A.071.

The Zoo's interests are represented by lobbyists, who are paid by the separate Minnesota Zoo Foundation, a 501(c)(3) charitable nonprofit corporation.

Analysis of the facts and previous Board positions on the subject suggest that the Zoo's lobbyists should be registered as representing the Zoo rather than the Foundation because the lobbyists represent the Zoo's interests and are directed by the Zoo's Director and Public Affairs Director.

If the lobbyists are properly registered as representing the Zoo, then the question becomes whether the Zoo is a principal. If it is not, then the gift prohibition does not apply to the Zoo.

The advisory opinion draft offers the conclusion that the Zoo, being a statutorily established state agency is not a principal. The reasoning behind this conclusion is more fully explained in the draft.

Ultimately the draft concludes that the gift is not prohibited.

With this opinion, the scope of section 10A.071 is further clarified. Previously the Board concluded that the U of M, MnSCU, and political subdivisions were not principals. This opinion extends that reasoning to the statutorily created Minnesota Zoo.

Attachments:

Request letter

Draft advisory opinion 441

State of Minnesota
Campaign Finance and Public Disclosure Board
Suite 190, Centennial Building. 658 Cedar Street. St. Paul, MN 55155-1603

THIS ADVISORY OPINION IS PUBLIC DATA
pursuant to a consent for release of information
provided by the requester

Issued to: Kevin Willis
Director/President
Minnesota Zoo
13000 Zoo Boulevard
Apple Valley, MN 55124

RE: Gift by state agency to public officials

ADVISORY OPINION 441

SUMMARY

The Minnesota Zoo is an agency of the State of Minnesota. A state agency is not a type of "association" under Minnesota Statutes Chapter 10A and, thus, is not included within the scope of entities that may be principals under the state's lobbying and gift prohibitions. Because the Zoo is not a principal, the gift prohibition of section 10A.071 is not applicable to the Zoo.

FACTS

As the Director and President of the Minnesota Zoological Garden (the Zoo), you request on the Zoo's behalf an advisory opinion from the Campaign Finance and Public Disclosure Board based on the following facts that were provided in the letter requesting the advisory opinion and in documentation provided with the request.

1. The Zoo is established in Minnesota Statutes Chapter 85A. The Zoo is a state agency operated by the Minnesota Zoological Board (the Zoo Board). The Zoo Board consists of up to 30 members, 15 appointed by the Governor and 15 appointed by the Zoo Board. The Zoo's board members are public officials. The Zoo Board appoints a director to oversee the Zoo's operations. The Zoo's director, officers, and employees are state employees.
2. All receipts from parking, admission, concessions, memberships, and donations to the Zoo are deposited into the state treasury and statutorily appropriated back to the Zoo Board for the Zoo's operations. Standard admission to the Zoo for one adult for the day is \$18.00. Parking is an additional \$7.00.
3. The Minnesota Zoo Foundation (the Foundation) is a Minnesota nonprofit corporation and a public charity under Section 501(c)(3) of the Internal Revenue Code. The purpose of the Foundation is to benefit, support, and carry out the purposes of the Zoo and, more specifically, to raise funds, and advocate on behalf of the Zoo.

4. The Foundation is governed by an independent board of trustees. The Zoo's director is *ex officio* the president of the Foundation and sits on the Foundation's board but does not have voting rights.
5. In consideration of fundraising and other services provided by the Foundation, the Zoo provides furnished office space and technical support to the Foundation. The Zoo and the Foundation also share a website at www.mnzoo.org.
6. The Foundation pays a lobbyist more than \$500 a year to represent the interests of the Zoo at the state legislature. The lobbyist works at the direction of the president of the Foundation, who is also the director of the Zoo, and in coordination with the Zoo's public affairs director, who is an employee of the Zoo. The Foundation does not direct the lobbyist's work. The lobbyist is registered with the Board and lists the Foundation as the organization represented on his registration form and lobbyist disbursement reports. These reports list the president of the Foundation (the director of the Zoo) as the contact for the principal.
7. For the past several years, the Zoo has held a Legislators' Day at the Zoo. The Zoo provides free admission to the Zoo, parking, lunch, and private tours by Zoo staff to legislators who attend this event. All legislators have been invited to the event in past years.
8. The Zoo would like to continue hosting a Legislators' Day at the Zoo and similar events for state legislators in the future.

ISSUE

Does the prohibition on gifts from lobbyists and principals to legislators in Minnesota Statutes section 10A.071 prohibit the Minnesota Zoological Garden from providing free admission, parking, food and beverages, and zoo tours to legislators as part of a Legislators' Day at the Zoo or similar events?

OPINION

Which entity is represented by the lobbyist who is paid by the Foundation?

The Board has previously examined situations where two related entities are involved in lobbying activities with one entity initially paying the lobbyist while the other entity directs the lobbyist's work and stands to benefit from the lobbyist's efforts. In the first such examination, the Board concluded that the entity that directed the lobbyist's work, and on whose behalf the lobbyist lobbied, was the association represented and that the lobbyist should register on behalf of that association. Advisory Opinion 292 (April 24, 1998).

More recently, the Board examined a situation in which a multi-faceted organization's public affairs department retained and directed the activities of lobbyists who lobbied on behalf of various operating units of the organization. The Board concluded that the lobbyist should register for the operating unit(s) whose interests were represented by the lobbyist. Advisory Opinion 413 (November 1, 2010).¹

The facts of the present situation are similar to those previously considered. Although the Zoo does not reimburse the Foundation for the lobbyist's salary, the Foundation exists solely

¹ In each of these cases, the entity whose interests were represented ultimately reimbursed the other entity for the services. However, for reasons described in this opinion, the Board does not find payment for a lobbyist's services to be controlling.

to further the goals of the Zoo. Under the facts of this opinion, the lobbyist's work is directed by the Zoo's director and its public affairs director, both of whom are employees of the Zoo. Additionally, the lobbyist advocates on behalf of the Zoo, not on behalf of the Foundation.²

The Board concludes that the approach it has previously applied to situations where a lobbyist represents the interests of one association while being paid, or even directed, by another is consistent with the plain language and intent of Chapter 10A. Thus, the Board concludes that the Zoo's lobbyist should be registered on behalf of the Zoo rather than the Foundation.

Direct payment by the Foundation for the lobbyist's services makes the Foundation an original source of funds under rule 4511.0100, subpart 5, which provides that:

"Original source of funds" means a source of funds, other than the entity for which a lobbyist is registered, paid to the lobbyist, the lobbyist's employer, the entity represented by the lobbyist, or the lobbyist's principal for lobbying purposes.

Once the lobbyist is properly registered based on the fact that he represents the Zoo's interests, it becomes clear that the Foundation is a source of funds paid to a lobbyist by an entity other than the entity for which the lobbyist is registered.

The lobbyist disbursement report should therefore show the Foundation as an original source of funds for lobbying. Although the Zoo has had a lobbyist representing its interests for several years, the Board applies this advisory opinion only prospectively and will not require amendments to lobbyist disbursements previously filed.

The proposed event results in a gift to officials

Minnesota Statutes section 10A.071, subdivision 2, provides as follows:

A lobbyist or principal may not give a gift or request another to give a gift to an official. An official may not accept a gift from a lobbyist or principal.

Legislators are officials covered by the gift ban. *Id.*, subd. 1 (c).

A gift is defined as "a service . . . that is given and received without the giver receiving consideration of equal or greater value in return." Minn. Stat. § 10A.071, subd. 1 (b). Providing free admission to the Zoo as well as free parking and Zoo tours is a service given and received without equal or greater consideration given in return. Therefore, the free services provided to legislators, under circumstances where the same services are not available to the public without cost, constitute a gift as [defined in section 10A.071. contemplated by the statutory gift ban.](#)

The facts make it clear that the gift is provided by the Zoo. Additionally, the facts do not provide any basis on which to conclude that the gift was requested by a lobbyist.

Is the Zoo a principal?

Under section 10A.071, a "principal" is "an individual or association". In order to conclude that the Zoo is a principal, the Board would first have to conclude that the Zoo is an "association".

² In discussions with Zoo staff, it was made clear that the lobbyist does not lobby on charitable corporation issues or other issues that would be related to the Foundation and its operations. Rather, the lobbyist advocates on behalf of the Zoo and its operations.

An association is “a group of two or more persons, who are not members of an immediate family, acting in concert. Minn. Stat. § 10A.01, subd. 6. The Board has previously determined that political subdivisions and public higher education systems are not associations. Advisory Opinion 224 (January 26, 1996); Advisory Opinion 297 (July 24, 1998).

Advisory opinion number 224 stated that the University of Minnesota, “as a constitutionally established institution which is recognized as a unique entity of state government”, was “more than an “association” as that term is defined in Chapter 10A. Similarly, the Zoo, as a statutorily established instrumentality of the state, which is recognized as a unique entity of state government, is more than an association as that term is defined in Chapter 10A.

The Board concludes that because the Zoo is a statutorily created state agency, which is recognized as a unique entity of state government, it is not included in the scope of entities defined as “associations” in Chapter 10A and, thus, cannot be a principal. A lobbyist that registers on behalf of a governmental entity that is not a principal is still covered by the provisions of the gift prohibition. However, an entity that is not itself a principal may provide a gift to a public official as long as the gift is not given at the request of a lobbyist or principal.

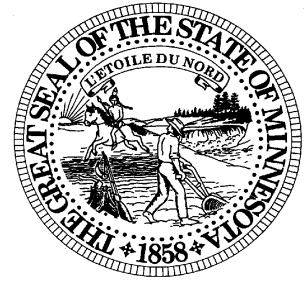
The Legislators’ Day at the Zoo is a long standing event that is given-conducted by the Zoo, not at the request of -and that was not requested by a lobbyist. Therefore, the event Legislators’ Day at the Zoo is not a prohibited gift to public officials under Minnesota Statutes section 10A.071.

Issued: January 15, 2016

Christian Sande, Chair
Campaign Finance and Public Disclosure Board

Minnesota

*Campaign Finance and
Public Disclosure Board*



Date: January 8, 2016

To: Board members

CONFIDENTIAL

From: Jeff Sigurdson, Assistant Executive Director

Telephone: 651-539-1189

Re: Advisory opinion 442 – Constituent Services

The request for this advisory opinion was received from Senator Westrom on December 23, 2015. The Senator has declined to make his request public. Therefore, both a public version of the opinion that does not identify the Senator, and a nonpublic version that will be provided only to the Senator, are attached for Board review.

The Senator operates his law practice and a real estate firm in a leased business office. The Senator also meets with constituents and takes constituent phone calls in the same office. The request asks a series of questions on whether campaign committee funds may be used to pay for a portion of the business office lease; and, if so, how should the payments be classified and reported.

The draft advisory opinion concludes that providing office space is a constituent service that may be paid for with campaign committee funds. The opinion places strict record keeping requirements on the committee to document the basis for the payments in order to avoid a corporate contribution or a conversion of campaign funds to personal use. The reasoning behind this conclusion is more fully explained in the draft.

Please feel free to contact me before the Board meeting if you have questions or suggestions for changing the draft opinion.

Attachments:

Request letter

Draft advisory opinion 442 – nonpublic version

Draft advisory opinion 442 – public version.

State of Minnesota
Campaign Finance and Public Disclosure Board
Suite 190, Centennial Building. 658 Cedar Street. St. Paul, MN 55155-1603

THIS ADVISORY OPINION IS PUBLIC DATA

**THE FOLLOWING PUBLICATION DOES NOT IDENTIFY
THE REQUESTER OF THE ADVISORY OPINION, WHICH IS NON PUBLIC DATA
under Minn. Stat. § 10A.02, subd. 12(b)**

RE: Noncampaign Disbursement for Constituent Services

ADVISORY OPINION 442

SUMMARY

A candidate's campaign committee may, under certain circumstances, pay for use of office space as a constituent service. Payment to a corporation in an amount equal to the fair market value of the goods or services provided is required to avoid a prohibited contribution from the corporation.

FACTS

As a member of the Minnesota Legislature, you request an advisory opinion from the Campaign Finance and Public Disclosure Board based on the following facts that were provided in the letter requesting the advisory opinion and in discussions with Board staff.

1. You are the sole owner of a professional office that is registered in Minnesota as a limited liability corporation. You are the only professional practicing in that office.
2. You also own another business. Both the professional office and the other business are located in a leased two-room business office. The office space is rented from an unrelated third party.
3. You periodically meet with constituents in the business office. There is no specific meeting area within the business office for meeting with constituents. The same space and furniture used for meeting with business clients is also used for meeting with constituents.
4. You have not kept a log of your meetings or phone calls with constituents. You estimate that you meet with individuals in the business office on constituent issues between one and four times a week. Additionally, you take between one and ten phone calls a week while at your business office from constituents with issues that you may be able to address as a legislator. The number of meetings and phone calls at your business office is significantly less during legislative session when you spend the majority of your time in St. Paul.
5. Although infrequent, you occasionally receive a phone call or visit at the business office that is related to your campaign for reelection.

6. You are considering placing a sign on the outside of the business office that would serve two purposes. A portion of the sign would identify the office as a location to meet with you, or call you, in your role as a legislator. The other portion of the sign would identify the office as the location of your professional office.

INTRODUCTION

The use of a candidate's campaign committee funds is controlled by Minnesota Statutes section 211B.12. The limitations on corporate contributions to candidates are found in Minnesota Statutes section 211B.15. The Board was first given the authority to issue advisory opinions on these two provisions of chapter 211B in 2014, and this is the first advisory opinion issued under that authority.

Minnesota Statutes section 211B.12 limits use of campaign funds to activities intended to influence elections and to the noncampaign disbursements defined in Minnesota Statutes section 10A.01, subdivision 26. Section 211B.12 also provides an overall restriction on the use of campaign funds by providing in part, "Money collected for political purposes and assets of a political committee or political fund may not be converted to personal use."

Minnesota Statutes section 211B.15 limits the donation of corporate funds and resources to influence elections. Candidate committees are prohibited from accepting corporate donations, either cash or in-kind contributions.

The noncampaign disbursements currently established by the legislature in Minnesota Statutes section 10A.01, subdivision 26, identify permitted uses of campaign funds that are not directly related to influencing voters at an election. Noncampaign disbursements do not count against the spending limit applied to candidates who sign a public subsidy agreement.

Relevant and applicable to this opinion is the noncampaign disbursement identified in section 10A.01, subdivision 26(6), which in part provides:

...services for a constituent by a member of the legislature or a constitutional officer in the executive branch, including the costs of preparing and distributing a suggestion or idea solicitation to constituents,...

The term "services for a constituent" is defined in Minnesota Rules 4503.0100, subpart 6, as follows:

"Services for a constituent" or "constituent services" means services performed or provided by an incumbent legislator or constitutional officer for the benefit of one or more residents of the official's district, but does not include gifts, congratulatory advertisements, charitable contributions, or similar expenditures.

Whether a constituent service qualifies as a noncampaign disbursement depends on when the service is provided. A constituent service qualifies entirely as a noncampaign disbursement if the service occurs from the beginning of the term of office of the elected candidate to adjournment sine die of the legislature in the election year of the office held by the candidate. For the sixty days following adjournment sine die a constituent

service is classified as 50% noncampaign disbursement and 50% campaign expenditure. More than sixty days after adjournment sine die, the entire amount spent on a constituent service is a campaign expenditure.

To have constituents you must be an elected official, therefore, this noncampaign disbursement is available only to incumbents.

The Board has previously held that in order to qualify as a constituent service there must be an actual service provided. The Board has acknowledged the cost of printing and mailing an unsolicited informational mailing to constituents, the cost of providing a mailed response to a specific request from a constituent, and staff costs directly related to providing constituent services may be paid for with campaign committee funds and reported as noncampaign disbursements, (during the appropriate time frames).¹

Also relevant to this opinion are Minnesota Rules 4503.0100, subpart 3a, and 4503.0800, subpart 4, which, when read together, provide that shared office space and services must either be paid for at fair market value, or considered to be an in-kind contribution at fair market value. Fair market value is defined as the amount that an individual would pay for the same or similar service or item on the open market.

ISSUE ONE

May your campaign committee pay for some portion of the rent of your business office as a noncampaign disbursement for providing constituent services?

OPINION

The Board approaches this issue with three concerns: 1) what is the actual service provided to constituents; 2) could the use of the business office be a prohibited corporate contribution; and 3) is it possible that a payment with committee funds for use of the office could result in a conversion to personal use.

The service that is evaluated in this opinion is the use of the business office as a location for interacting with constituents. The Board has previously recognized in investigative findings that the cost of operating a constituent service office in the legislator's district may be paid for with committee funds and, depending on when the office was open, reported as either a campaign expenditure or a noncampaign disbursement.² The Board accepted that the office was a service to constituents because it provided a location within the district to meet with the legislator, leave phone messages, and in general provide easier access to the legislator.

The use of the business office in this opinion provides the same advantages, and is a service to constituents. Therefore, campaign committee funds may be used to pay for some portion of the business office operating costs.

¹ See Advisory Opinions 248, 275, 294, 307, 313, and 378. Opinions are available online at www.cfboard.state.mn.us/ao/index.html.

² See Findings regarding a complaint against Representative Greg Davids, October 15, 2004. The finding is available online at www.cfboard.state.mn.us/bdinfo/investigation/101504Davids.pdf

The constituent service office examined in the investigation referenced above was not shared with any other entity or business. This made it easy to determine the costs associated with operating the office and, by extension, the amount to be reported as a noncampaign disbursement. The single purpose use of the constituent office also meant there was no danger of a prohibited contribution from any other entity that shared the office.

In the facts of this opinion the business office space is not exclusively, or even primarily, used as a service to constituents. Further, as provided in the facts of this advisory opinion, there are no discrete additional costs associated with assisting constituents at the business office. The same office space and furniture used to run the businesses housed at the office are used when meeting with a constituent. Similarly, no additional staff or office equipment has been added to the business office to accommodate constituents who come to the office.

Payments from the campaign committee to the business must reflect actual use to avoid an inadvertent corporate contribution that might occur if the amount paid is not fair market value for the services received.

As stated in the facts the requester has not kept a log of constituent visits or phone calls, and acknowledges that the number of calls and visits can vary dramatically week to week. For a payment to be accurate it must be based on a record that can justify the payment. The payment cannot be based on an approximation of actual use. Therefore, a log of constituent meetings will need to be kept. A log of the number, dates, and duration of visits is also needed to meet the record keeping requirements of Minnesota Statutes section 10A.13, which requires the campaign committee treasurer to obtain a receipted bill, stating the particulars, for every committee expenditure in excess of \$100.

Finally, the Board is concerned that payments from the campaign committee for use of the business office could result in a conversion of committee funds to personal use. Because there are no additional identifiable costs to the business to support the constituent meetings, the payments received from the campaign committee will in effect partially pay the business operating costs, and therefore increase the profitability, of a business owned by the legislator. To avoid this, committee payment must again reflect the fair market value of the actual use of the office, not an approximation.

Paying the fair market value of an item like office space requires keeping an accurate log of the amount of time the office is used for constituent services, and then using that information to calculate what percentage of time the office is used for constituent services. The percentage of time the office is used for constituent services is used to determine the percentage of the lease costs that should be paid by the committee.

Any additional identifiable office costs, for example the use of a copier or a dedicated phone line, must be added to the fair market value of the space provided.

This opinion should not be interpreted as an expansion of constituent services to include payment for the use of *any* space where the legislator meets with constituents. Specifically, this opinion should not be read to suggest the Board's approval of a campaign committee's payment for use of space in a legislator's home for either constituent services or campaign purposes. It is the Board's opinion that such a

payment could result in a conversion to personal use prohibited in Minnesota Statutes section 211B.12.

ISSUE TWO

During an election year may your campaign committee pay your business for some portion of the rent of the business office as a campaign expenditure?

OPINION

As noted in the introduction section of this opinion, the noncampaign disbursement for constituent services is available in full only during a certain time frame. In a year in which the legislator's office is on the ballot the adjournment of the legislature sine die starts a sixty-day period when the cost of the use of the business office is classified as 50% noncampaign disbursement, and 50% campaign expenditure. More than sixty days after adjournment sine die the entire amount spent on the use of the business office is a campaign expenditure.

Because all campaign expenditures count against the spending limit for a candidate that signed the public subsidy agreement, the campaign committee will need to monitor the payments to the business office carefully through the end of the election year.

To the extent that payments for constituent services as a noncampaign disbursement are approved in Issue One, payment for the campaign expenditure portion of those services is also approved.

ISSUE THREE

Should your campaign committee reimburse your business if you receive a call related to your election campaign at work?

OPINION

While this opinion is safe harbor only to the requester under the specific facts in the request, the Board believes that this question reflects a common quandary faced by both challengers and incumbent candidates. Namely, is a payment from the campaign committee to the candidate's employer or business required if the candidate takes any action related to the election while at work? While acknowledging that candidates should always be aware that corporate contributions to their campaigns are prohibited, the Board finds it unrealistic to expect that a candidate will never have a conversation or phone call related to the campaign during working hours. Such a standard would be both unreasonable and, as a practical matter, unenforceable.

Employers recognize that employees will need to make or receive the occasional personal phone call or visitor while at work. Allowing an employee to accept a personal phone call or visitor is a benefit given to the employee by the employer. If, as an example, the employee decides to use a personal phone call to order more lawn signs for the campaign, that phone call does not become a corporate contribution to the candidate's committee. Instead, the personal call made while at work is from the employee who made the call, not the employer that allows the call to occur.

Typically the employer expects that personal phone calls or visits will be short in duration, limited in number, and that they will not significantly interfere with the employee's work. The value of a personal phone call or meeting, treated as a contribution from the employee, is unlikely to reach the threshold where in-kind contributions must be recorded and reported by the campaign committee.³

It is important to note that a corporate contribution to a campaign committee may occur if the employee's activity causes an actual increase in the corporation's operating costs, or if the employee is given greater latitude to make personal phone calls or visits related the campaign compared to the number of personal calls or visits other employees are allowed. As examples, the use of an employer's photocopier or a phone bank to support the campaign must be paid for with committee funds to avoid a prohibited corporate contribution.

ISSUE FOUR

Is the cost of preparing and displaying a sign advertising your location and phone number as a member of the legislature a constituent service that may be paid for by the committee and reported as a noncampaign disbursement?

OPINION

The Board addressed a very similar set of facts regarding a sign providing contact information for a member of the legislature in Advisory Opinion 275. In that opinion the Board concluded that the definition of constituent services "...is to be interpreted narrowly, the Board concludes that advertising your availability to answer questions is not the provision of a constituent service." This opinion also provided that the requester could pay for the cost of the sign with the legislator's campaign committee funds if the expense was reported as a campaign expenditure. The Board concludes that the result reached in Advisory Opinion 275 is equally applicable to the facts now before it.

If a sign is divided and used for more than one purpose, as described in the facts of this opinion, the committee should pay only for that portion of the sign used to advertise information on contacting the legislator.

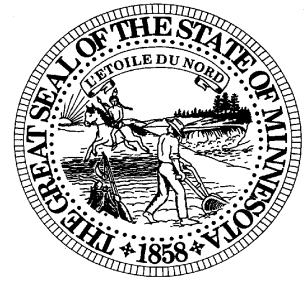
Issued: January 15, 2016

Christian Sande, Chair
Campaign Finance and Public Disclosure Board

³ Minnesota Statutes section 10A.13, subdivision 1, provides that a campaign committee does not need to keep an account of in-kind contributions valued at \$20 or less.

Minnesota

*Campaign Finance and
Public Disclosure Board*



Date: January 8, 2016

To: Board members

From: Gary Goldsmith, Executive Director

Telephone: 651-539-1190

Re: Amendment of Advisory Opinion 400

Advisory Opinion 400 was issued on July 22, 2008. It responded to a requester's series of questions about a political consultant's work for both for a candidate and an association that would make independent expenditures affecting that candidate's election. The requester wanted guidance concerning how the consultant's work for the candidate and the association should be separated in order to avoid destroying the independence of the association's independent expenditures.

The Board approved a series of policies and procedures that would protect the independence of the subject independent expenditures. The Board concluded that the consultant would have to maintain essentially separate divisions that could not communicate with each other.

For your information, I attach a copy of the public version of the opinion to this memo. The public version is identical to the nonpublic version except that the requester is not identified. The requester's identity is not relevant to the issue discussed in this memo.

In the opinion, the Board addressed the time period in which the consultant would be required to maintain two separate operating divisions, as follows:

The period of time within which to examine whether there is sufficient isolation between the work being done for two clients begins when the work for the first client commences and ends at the later of (1) the date that the consultant's work for both clients ends or (2) the end date of the election cycle.

This makes sense because if separation is maintained during that time period, there can be no cooperation or implied consent. However, the Board went further than the request asked, making the following additional statement:

Use by one of a consultant's clients of material produced by the consultant for another client does not result in cooperation or coordination between the clients if the material has been published by the producer and the second client obtains the material from public sources.

This statement was not required to answer the questions posed and, based on more recent examination of independent expenditures by the Board and by the Federal Election Commission, may not accurately reflect the law regarding re-use of candidate materials.

While the Board has implicitly approved the re-use of photos published on a candidate's website and has declined to find cooperation when a party unit used a few seconds of a candidate's published video segment, the Board has limited its approval of re-use of candidate materials to these two situations. In considering the matter of re-use of video footage in a gubernatorial election, the Board specifically limited its conclusion to the use of only 3-5 seconds of video out of a much larger segment. The language of Advisory Opinion 400 could be read to suggest that once a candidate publishes campaign material, others can re-publish it in full and still treat the costs as independent expenditures. The Board has not reached such a conclusion except as suggested in Advisory Opinion 400.

Staff brings this matter to the Board's attention so that the Board has the option of amending Advisory Opinion 400 to remove the subject statement. Authority to amend advisory opinions is provided in section 10A.02, subdivision 12(b)(1). Amendment of this opinion by removing the subject statement would not establish any new policy with respect to re-use, but would eliminate the suggestion that wholesale re-use of a candidate's complete publications or other campaign materials would necessarily qualify for independent expenditure treatment.

Should the Board wish to amend this section, the following motion would be in order:

Resolved,

That the Campaign Finance and Public Disclosure Board amends Advisory Opinion 400, issued July 22, 2008, by deleting the following statement:

Use by one of a consultant's clients of material produced by the consultant for another client does not result in cooperation or coordination between the clients if the material has been published by the producer and the second client obtains the material from public sources.

Attachment
Advisory Opinion 400

STATE OF MINNESOTA
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD

AGREEMENT

1. Cedar Towing and Auction was a principal association whose lobbyist, Al Garcia, registered with the Board on August 23, 2012. On August 27, 2015, Cedar Towing and Auction filed its 2014 principal's report, which was due on March 16, 2015, and was assessed a \$1,000 late filing fee and a \$1,000 civil penalty. On September 18, 2015, the Board notified Cedar Towing and Auction that its 2015 principal's report appeared to be inaccurate and therefore required an amendment. Because an amended report was not timely received, an additional late filing fee of \$1,000 was assessed.

2. Cedar Towing and Auction filed its amended principal's report for 2014 and its year-end principal's report for 2015 on January 6, 2016. On that date, Cedar Towing also notified the Board that it had terminated its relationship with its lobbyist.

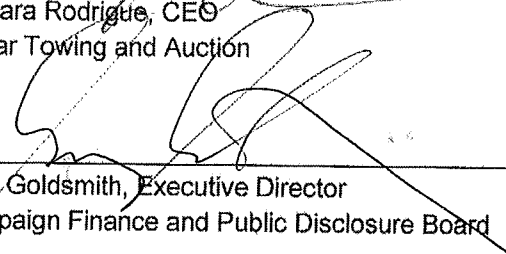
3. Cedar Towing and Auction has asked the Board to waive or stay the late filing fees and civil penalties it has accrued. As consideration for the Board's stay of the late filing fees and civil penalties until April 1, 2018, Cedar Towing and Auction makes the following representations and agreements:

- a. Cedar Towing and Auction's CEO Tamara Rodrigue acknowledges her responsibility for the filing of future principal's reports if the business has a registered lobbyist. Cedar Towing and Auction hereby identifies Tamara Rodrigue as the individual responsible for the filings and agrees that if any future filings are late it will pay any late filing fees or civil penalties that are assessed for the late filing of the future reports. However, Cedar Towing does not waive its right to request a waiver of any late filing fee or civil penalty for good cause.
- b. Cedar Towing and Auction understands that it cannot be relieved of its responsibility to file principal's reports by delegating that responsibility to a lobbyist.
- c. If Cedar Towing fails to file on time any principal's report due through April 1, 2018, the \$3,000 in currently assessed late filing fees and civil penalties is due immediately in addition to any late filing fees and civil penalties that may also be assessed by the Board for the late future report.



Tamara Rodrigue, CEO
Cedar Towing and Auction

Dated: 01/07/2016



Gary Goldsmith, Executive Director
Campaign Finance and Public Disclosure Board

Dated: 1/7/16

Agreement approved by the Board at its meeting of January 15, 2016.

Christian Sande, Chair

CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD January, 2016

ACTIVE FILES

Candidate/Treasurer/ Lobbyist	Committee	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Served by Mail	Default Hearing Date	Date Judgment Entered	Case Status
Derrick Lehrke	Derrick Lehrke for House	Principal Campaign Committee Amended 2014 Year-End Report of Receipts and Expenditures Late Filing Fee for late filing of the Principal Campaign Committee 2013 Year-End Report	\$1,000 \$125	8/3/2015	9/ 21/2015 10/6/2015			A Motion for Summary Judgment and Memorandum were filed with the Court on 12/18/2015 \$125 received
	Cedar Towing & Auction	2014 Lobbyist Principal Report-Late filing 2014Amended Principal Report	\$1,000/\$1,000	10/13/2015	12/31/2015			The Summons and Complaint were served by mail on the Defendant
	North East Social	2013 Lobbyist Principal Report 2014 Lobbyist Principal Report-Late filing	\$1,000/\$1,000 \$475/\$100	10/13/2015	12/31/2015			The Summons and Complaint were served by mail on the Defendant
Evan Rapp	Evan Rapp Volunteer Committee	Fund reimbursement	\$928.50/\$928.50	10/13/2015				The Summons and Complaint are drafted Hold

CLOSED FILES

Candidate/Treasurer/ Lobbyist	Committee	Report Missing/ Violation	Late Fee/ Penalty	Referred to AGO	Date S&C Served by Mail	Default Hearing Date	Date Judgment Entered	Case Status
----------------------------------	-----------	------------------------------	----------------------	--------------------	-------------------------------	----------------------------	-----------------------------	-------------

--	--	--	--	--	--	--	--	--

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

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER**

IN THE MATTER OF THE EVAN RAPP VOLUNTEER COMMITTEE (16838);

Background

The Evan Rapp Volunteer Committee's 2008 year-end Report of Receipts and Expenditures was the last report filed by the committee that detailed any transactions. The committee filed no change reports with the Board for 2009, 2010, 2011, and 2012. Based on the committee's failure to file a 2013 year-end report, failure to respond to Board correspondence, and the fact that the committee has filed no change reports over an extended period of time, the Board, at its meeting of November 18, 2014, initiated an audit and investigation of the committee to determine the accuracy of the committee's currently reported cash balance.

The committee last reported that, on December 31, 2012, it had a cash balance of \$1,278.50. The committee failed to file its required 2013 year-end report and accrued a late filing fee of \$1,000 and a civil penalty of \$1,000. The Board attempted numerous times to contact Mr. Rapp to seek compliance; Mr. Rapp was not responsive to these Board requests. In addition, the committee has outstanding late filing fees of \$350 and \$175, which accrued on the committee's 2011 and 2012 year-end reports, respectively.

After receiving the Board's letter of November 25, 2014, notifying the committee of the investigation, Mr. Rapp reached out to Gary Goldsmith, Executive Director to the Board. Mr. Rapp explained that the committee's bank account was closed and that he had paid himself the remaining committee funds as compensation for storage of committee signs and records. However, Mr. Rapp also acknowledged that he incurred no costs for the storage of the signs and records, as they were stored at his home.

The committee's funds consisted of contributions made by individuals, political party units, and political committees and funds, as well as state public subsidy funds. Mr. Rapp also contributed \$250 to his committee, which he would be permitted to return to himself, and the committee would be permitted to terminate with \$100 of its cash balance unaccounted for. Subtracting those amounts leaves \$928.50 that should still be available for use by the committee.

Based on the investigation, the Board makes the following:

Findings of Fact

1. The committee's funds consisted of contributions made by individuals, political party units, and political committees and funds, as well as state public subsidy funds.

2. Mr. Rapp paid himself \$1,278.50 in committee funds to store the committee's signs and records. Neither Mr. Rapp nor the committee incurred any actual costs for storing the signs and records.

Conclusions of Law

1. The committee's money was raised for political purposes as defined in section 211B.01, subdivision 6.
2. Mr. Rapp violated Minnesota Statutes section 211B.12 (7), which prohibits a committee from using money collected for political purposes for personal use, when he paid himself committee funds for the storage of campaign signs and records for which he incurred no costs. This money was used for purposes not permitted under chapter 10A or under section 211B.12.

Based on the above Findings of Fact and Conclusions of Law, the Board issues the following:

Order

1. Mr. Rapp is ordered to pay \$928.50 to the State of Minnesota in lieu of returning to the Committee the funds that were converted to personal use, as the Committee is terminating. Mr. Rapp is further ordered to pay a civil penalty of \$928.50 as a penalty for the conversion to personal use. The civil penalties must be paid by check or money order made payable to the State of Minnesota within 30 days of the date of this Order and must be sent to the Board at 658 Cedar St., St. Paul, MN 55155.
2. The Evan Rapp Volunteer Committee is terminated effective December 31, 2013.
3. The investigation of this matter is concluded.

Dated: January 15, 2016

/s/ Christian Sande

Christian Sande, Chair

Campaign Finance and Public Disclosure Board