

**State of Minnesota  
Campaign Finance and Public Disclosure Board**

**Findings, Conclusions, and Order in the Matter of the Investigation of the John Lesch for State Representative Committee**

**Investigation**

The John Lesch for State Representative committee (Committee) is the principal campaign committee of Rep. John Lesch. This matter began as an informal inquiry into a reimbursement to Rep. Lesch listed on the Committee's 2013 year-end report of receipts and expenditures. The report listed payments to Representative Lesch for \$2,500 and \$1,500 on February 26, 2013, and March 19, 2013, respectively. The report indicated that the reimbursements were for printing and postage expenses for a mailing during the 2012 election.

This disclosure raised two issues. First, no corresponding unpaid bills were listed on the Committee's 2012 report and, second, the 2013 report did not include the name and address of the vendors that purportedly had been paid by Rep. Lesch, as required by statute. Because of these reporting problems, staff notified the committee on June 17, 2014, of the need to amend the 2012 and 2013 reports to include the missing information.

On July 29, 2014, because amended reports had not been received, the Board again notified the Committee by letter of the need for amendments and included the statutory notice that a late filing fee would be incurred if the amendments were not received. This was the start of a set of Board staff communications with the Committee's treasurer and directly with Rep. Lesch in an effort to resolve what was believed to be a reporting issue that could be resolved by amendment. Rep. Lesch serves in the National Guard and has, on occasion, been unavailable to address the Board's investigation promptly, which resulted in some delays in the investigation.

In October of 2014, staff communicated directly with Rep. Lesch, and provided him with a letter detailing specifically what information was required to resolve the reporting issues. The letter to Rep. Lesch also requested copies of the receipts or invoices from the vendors who provided the printing and mailing services that were the basis of the reimbursement to Rep. Lesch.

Board staff met with Rep. Lesch on December 12, 2014. By the time of this meeting staff was concerned about the reliability of the Committee's records, and was in the process of reviewing other reports filed by the Committee for possible reporting problems. Staff warned Rep. Lesch that unless progress was made in resolving the reporting problems staff would need to take the matter to the Board for authorization to start a formal investigation. To ensure that the upcoming 2014 year-end report would be accurate, staff requested a copy of the Committee's 2014 year-end bank statement. A letter documenting the meeting and the information needed to resolve the outstanding issues was sent to Rep. Lesch on January 6, 2015.

The staff review of Committee filings found that the committee's 2013 year-end report disclosed an outstanding loan from Rep. Lesch to the Committee in the amount of \$2,194.72. However, no previous report had shown the Committee having received the proceeds of this loan. The loan did not fit the profile of a typical candidate loan to a principal campaign committee because the loan was in an unusual amount, because the loan was made during a non-election year, and because the reported year-end cash balance of the Committee was almost \$11,000.

Staff requested details regarding the 2013 loan by letter of February 24, 2015. In April 2015, the committee transitioned to a new treasurer. The Committee provided a copy of the 2014 year-end bank statement and a July 2013 bank statement purporting to show the deposit of the loan from Rep. Lesch to the committee.

The bank statements raised new issues. First, the Committee's 2014 year-end bank statement disclosed a cash balance that was about \$6,000 less than the year-end cash balance reported to the Board. Second, the July 2013 bank statement disclosed that the committee had only \$26.01 in its account at the beginning of the month, and had incurred two insufficient fund charges during the month. This information was not consistent with committee's reported 2014 year-end balance of over \$8,500. The Committee had not reported any bank charges in 2013.

By letter dated July 15, 2015, staff notified Rep. Lesch that because of the inability of the Committee to resolve the issues related to reimbursements or cash balance discrepancies, staff planned to request that the Board authorize a formal audit and investigation. On July 22, 2015, Rep. Lesch contacted the executive director and asked that he defer taking the matter to the Board for elevation to a formal proceeding while the Committee put together a response to the unresolved issues. By letter dated August 7, 2015, the executive director agreed to delay a request for a formal investigation if the Committee promptly provided the following information:

- A list of the Committee's depositories, year-end bank statements, and complete records for each depository from 2010 through 2014.
- Additional information regarding the loan from Rep. Lesch to the Committee, specifically an explanation of the unusual amount of the loan.
- A copy of documentation to support the reimbursements reported as being made to the candidate.

By letter dated October 5, 2015, Rep. Lesch provided evidence that he had requested complete bank records for the Committee, and provided Committee account year-end bank statements for the years 2011 – 2013. In explanation of the reported loan, Rep. Lesch stated that the payment to the Committee was not actually a loan, but was instead his repayment of campaign funds withdrawn and used for personal expenditures in 2012. Rep. Lesch detailed in his response that he had inadvertently made a \$1,500 cash withdrawal and a \$500 electronic transfer from the Committee account on November 21, 2012, and had mistakenly used the Committee cash card to make a \$214.72 personal purchase in October of 2012.

Rep. Lesch's response was the first time staff was informed that there never was a loan from the candidate to the Committee. At this point staff did not believe it was advisable to continue its

work in the form of an informal staff inquiry. In response to a request from the executive director, the Board opened a formal investigation of the Committee's finances at the November 3, 2015, meeting.<sup>1</sup> Subsequently, in November of 2015, staff was notified that the Lockridge Grindal Nauen law firm was representing Rep. Lesch for the purpose of the investigation.

The Board issued administrative subpoenas for the Committee's bank records from Capitol Bank for the period of October 2008 through February 2011, Sunrise Bank for the period of May 2009 through February 2014, and USAA Federal Savings Bank for the period of January 2014 through December 2015. Because of difficulties in serving the subpoena on USAA, the Board relied on records for this depository provided by the Committee.

The examination of the Committee's bank records identified 35 transfers and one cash withdrawal for \$1,500 that were made either to Rep. Lesch, or to Rep. Lesch's personal credit card. Some of these disbursements could be matched by amount to expenditures disclosed on the Committee's reports, but others could not. Consequently, staff was unable to determine the purpose of some of these payments from the Committee's reports or from the bank records.

The examination of the bank records revealed that the reported year-end cash balance for the Committee typically differed by thousands of dollars from the actual amount available in the account. The Committee's reported ending cash balance and year-end bank statement were within \$100 of balancing at the end of 2009. However, starting in 2010 and continuing through 2015 total contributions and total expenditures reported by the Committee did not match total deposits and total withdrawals on the bank statements, and the reported ending cash balance and year-end bank statement were different by thousands of dollars, with the reported cash balance always being more than the actual cash in the bank.

On April 4, 2016, the Committee was asked to explain the transfers to Rep. Lesch's personal bank accounts and the payments made to Rep. Lesch's credit card that could not be matched to an expenditure disclosed on the Committee's campaign reports. Staff also asked for information on the purpose of multiple technology expenditures reported by the Committee. The Committee was also directed to examine bank records and explain the discrepancies in year-end balances between the bank statements and the ending cash balances reported to the Board. The committee was directed to file amended reports for the years 2010 through 2015.

Additionally, in 2011, Rep. Lesch was a candidate in the special election to fill a vacancy in Senate District 66. As required by statute a separate bank account was established for the senate campaign. At the end of the special election cycle the senate account was closed, and a reported \$2,232 in unspent senate committee funds was transferred to the house committee. Staff could not locate a deposit in the house committee's bank statements that would reflect receipt of that amount. The Committee was directed to determine the actual amount of funds transferred from the senate committee into the house committee account.

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<sup>1</sup> At the time, the proceeding was referred to as a formal investigation and audit. However, the Board's work was carried out as an investigation without a specific audit component and is referred to herein as an investigation.

Staff requested a Committee response to these issues, and at least a first draft of amended reports, by May 6, 2016. This deadline was not met, but the Committee assured staff that it was going through financial records for each of the years in question and that a response was forthcoming. Board staff met with counsel from Lockridge Grindal Nauen on June 24 and July 21, 2016, to address the investigation and information necessary to resolve the open questions. On October 28, 2016, the Lockridge Grindal Nauen law firm forwarded a response to the questions raised by the Board. The response was in the form of a sworn declaration signed by Rep. Lesch, copies of certain receipts and credit cards statements, and pictures of and information about technology purchases made by the Committee.

The response addressed the transactions identified in staff's April 4 letter and in some cases provided sufficient explanation and documentary evidence to explain and justify the payments to Rep. Lesch. The response also stated that Committee financial records could not be located to document five disbursements to Rep. Lesch that totaled \$8,727.62. Included in this amount are the \$2,500 and \$1,500 reported reimbursements on February 26, 2013, and March 19, 2013, for printing and postage expenses that were the basis for the initial staff inquiry. Rep. Lesch could not recall the purpose of the expenditures that were the basis for the remaining \$4,727.62 in payments to his personal account but stated that, consistent with the Committee's practices, these expenditures would have been reimbursements for campaign-related expenses paid by Rep. Lesch.

Rep. Lesch also acknowledged in his statement that on five occasions he had inadvertently made electronic transfers from the Committee account to a personal account. The statement provided that the funds had been transferred back into the Committee account when the error was identified, typically within a few days of the original transfer. In total the electronic transfers out of the Committee account came to \$5,820. The bank records show that Rep. Lesch transferred \$6,820 back to the Committee account, resulting in a net transfer of \$1,000 to the Committee's account.

Further, the response provided that the transfer of leftover funds from the terminated senate committee to the Committee had occurred in several transactions, and not in a single deposit as reported by the Committee. The total amount reported as transferred from the senate committee to the Committee matched bank statements.

The response provided the requested documentation of Committee expenditures on technology and evidence that the items purchased were still in possession of the Committee. Based on the records provided on technology expenditures the Board investigation into those expenditures ended.

The Board staff interviewed the current and two former Committee treasurers under oath and with a court reporter recording the interviews. The treasurers who provided statements were Melissa Lesch<sup>2</sup>, treasurer from August 2011 to January 2013; Nicole Frethem, treasurer from January 2013 to June 2015; and Chloe Abuzeni, treasurer from June 2015 to present.

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<sup>2</sup> Melissa Lesch was treasurer of the Committee prior to her marriage to Rep. Lesch. During her time as treasurer she was known as Melissa Reed.

Through the treasurer statements staff learned that some Committee financial records were maintained in an electronic drop box. The electronic drop box contained scans of invoices, contributor receipts, bank statements, spreadsheets used to track expenditures, and other miscellaneous records. The drop box was accessible to the treasurer and Rep. Lesch. Staff requested examination of the electronic drop box records, and received access to the drop box on February 14, 2017.

The Board authorized the subpoena of Rep. Lesch's personal bank account for the months in which Committee funds were deposited or transferred into the account. The bank records for Rep. Lesch's personal accounts were received on March 27 and April 14, 2017. In Executive Session at the March 1, 2017, and July 31, 2017, Board meetings, Charles Nauen addressed the Board to provide his client's position on the investigation and answer questions.

## **Analysis**

### **Recordkeeping**

Chapter 10A requires committees to obtain and maintain internal records of their financial transactions. Minnesota Statutes section 10A.025, subdivision 3, specifically provides as follows:

A person required to file a report or statement or who has accepted record-keeping responsibility for the filer must maintain records on the matters required to be reported, including vouchers, canceled checks, bills, invoices, worksheets, and receipts, that will provide in sufficient detail the necessary information from which the filed reports and statements may be verified, explained, clarified, and check for accuracy and completeness. The person must keep the records available for audit, inspection, or examination by the board or its authorized representatives for four years from the date of filing of the reports or statement or of changes or corrections to them.

The Board may impose a civil penalty of up to \$3,000 on a person who knowingly violates the recordkeeping provisions and an additional civil penalty of up to \$3,000 on the committee affiliated with that person. Minn. Stat. § 10A.025, subd. 3 (b).

Additional record keeping requirements are found in Minnesota Statutes section 10A.13 which provides in part that:

The treasurer must obtain a receipted bill, stating the particulars, for every expenditure over \$100 made by, or approved expenditure over \$100 made on behalf of, the committee, fund, or party unit, and for any expenditure or approved expenditure in a lesser amount if the aggregate amount of lesser expenditures and

approved expenditures made to the same individual or association during the same year exceeds \$100.

The recordkeeping requirements of Chapter 10A are stringent, and the possible penalties for failing to meet the recordkeeping requirements high, in order to ensure that the treasurer can accurately report contributions and expenditures and fully disclose the financial status of the committee. Further, the records ensure that a committee uses funds raised from political contributions or received through the public subsidy program only for the purposes provided in Minnesota Statutes section 211B.12.

Rep. Lesch acknowledged in his October 26, 2016, statement that the Committee did not have the records needed to document some expenditures and reimbursements. In his statement, Rep. Lesch offered the following reason for the Committee's lack of complete records:

Due to the passage of time, my staff and I have not been able to locate all of the detailed information requested by the Board and do not have specific recollection of each transaction which occurred anywhere from three to six years ago

It is true that the Board investigation eventually expanded to include reimbursements to Rep. Lesch made in 2010. However, the Board's initial request for information, which concerned the \$2,500 and \$1,500 payments made to Rep. Lesch in 2013, was made less than six months after those payments were reported. Even at that time, the Committee had no records to justify the reimbursements, or any recollection as to the vendor(s) that provided the services.

Nicole Frethem was the treasurer when staff first contacted the Committee for documentation on the \$2,500 and \$1,500 reimbursements to Rep. Lesch made in 2013. Ms. Frethem was not the treasurer in 2012 when the campaign expenditures that were the basis of those reimbursements purportedly occurred. Ms. Frethem explained the difficulty that she encountered when she tried to obtain documentation for the reimbursements shortly after they had been made.

[S]ince I hadn't been the treasurer, I really -- it was like, "I really need you to tell me what this was." He [Rep. Lesch] said it was for printing and mailing fees, but we couldn't find the invoice. He had paid for it out of his account instead of the other account, but he couldn't remember the company; he was looking through his e-mail and trying to search it. But I didn't -- I didn't have access to anything that would have told me what it was specifically, so it really -- you know, my process was to continually follow up with him to tell him, "I really need you to get this for me. This is what you said this expense was. I need documentation of it, and I don't have anything. There's nothing in what you've given me. There's nothing that I can find. I don't have access to your personal bank statements, so I can't find where you made this payment to that you said you made in 2012, so you need to provide this."

And I really -- there was nothing I could do, because it wasn't in -- it wasn't in the campaign account, and I didn't have any documentation for it. I didn't have any reason

to disbelieve him. I -- so I just kept asking him and reminding him, "You need to get this." <sup>3</sup>

The statement provided by Melissa Lesch, treasurer for the Committee from August 2011 to January of 2013, also indicates that the committee made reimbursements to Rep. Lesch without obtaining contemporaneous invoices or receipts for the underlying expenditures. Ms. Lesch said that she maintained spreadsheets on Committee finances in the electronic drop box and that she used these spreadsheets to prepare campaign finance reports. In addition to the spreadsheets, bank statements and some receipts and invoices were scanned into the drop box file system.

The statement of Melissa Lesch was taken on February 24, 2017. During her statement, Ms. Lesch was asked specifically about a \$2,100 payment by the Committee to Rep. Lesch in 2011, and a \$1,500 cash withdrawal by him in 2012. The \$2,100 payment and the \$1,500 withdrawal were on Committee spreadsheets, but neither transaction was disclosed on campaign finance reports. Board staff found no receipts or invoices to justify the payments in the drop box files.

In response to a question about how she would have reported the expenditures underlying the \$2,100 payment if she thought that it was a reimbursement to Rep. Lesch, Ms. Lesch said:

I probably -- and I didn't, but I, ...should have asked him for ...delineated receipts for that. I --you know, I just assumed, well, it's all bundled in here, and... I didn't ask to have it broken down.

When Ms. Lesch was asked why the \$2,100 payment and the \$1,500 withdrawal were on the spreadsheet but not the Committee reports, Ms. Lesch stated:

...I just chalked it up to...that he had probably...paid for some stuff on his own and was entitled to reimbursement. And I should have been more...diligent about asking for receipts, but I was kind of overwhelmed; this was a very busy time of year. And,... I know that he paid for things on his own and was entitled to reimbursement, and so I probably just chalked it up to that, and, like, "Oh, I should probably ask for more receipts or something," you know, but -- but he did pay for his own stuff which should have been campaign, and,...I think I just assumed that he was just entitled to a reimbursement...

The statements from the Committee's treasurers support the conclusion that the Committee regularly failed to obtain the statutorily-required documentation for the expenditures underlying the reimbursements to Rep. Lesch.

Rep. Lesch also claimed in his October 2016 statement that the Committee could not produce documentation because those records had been lost:

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<sup>3</sup> Sworn interview with Nicole Frethem conducted December 20, 2016.

In addition, a significant portion of the Lesch Committee's records were lost several years ago. In order to keep materials organized, the Lesch Committee stored its records in a portable plastic file box which was maintained by the treasurer. Nicole Frethem served as the treasurer in 2013 and 2014. The plastic file box was provided to Ms. Frethem when she began serving as the Lesch Committee's treasurer. However, Ms. Frethem did not return the plastic file box when she registered as treasurer. Multiple attempts have been made to recover the files but Ms. Frethem has indicated that she does not have custody of the Lesch Committee's records. I believe the records provided to and maintained by Ms. Frethem are irretrievably lost.

Ms. Frethem's recollection is different. Ms. Frethem stated that she was provided a file with envelopes of receipts, invoices, and mail along with access to the drop box account. Ms. Frethem stated that she transferred the records to the new treasurer, Chloe Abuzeni. Ms. Frethem acknowledged that she had inadvertently kept a small envelope of receipts and deposited checks, which she subsequently provided to Board staff. The receipts, invoices, and checks provided to the Board were for expenditures that already had been included on financial reports filed with the Board.

Ms. Abuzeni provided her statement on February 24, 2017. Ms. Abuzeni provided that she did not receive any physical receipts or invoices, the scanned invoices and receipts in the drop box account were the only records she received.

Because the Committee had no records for many of its expenditures and reimbursements, Rep. Lesch was given time during the investigation to try to reconstruct the missing records. During this time, Rep. Lesch could have obtained documentation by contacting vendors to reissue invoices or confirm purchases, or by obtaining personal bank statements, copies of checks, or credit card statements that showed to whom the underlying expenditures had been made. The reconstructed records could have been used to document the reimbursements for which no contemporaneous records were provided to the treasurer or, for whatever reason, for which records were no longer in the possession of the Committee. Rep. Lesch, however, provided no additional documentation for the reimbursements at issue.

In summary, the information and statements related above establish that the Committee either failed to obtain the records required by Minnesota Statutes sections 10A.025, subdivision 3, and 10A.13, or failed to maintain those records for the required four years for the expenses underlying various payments to Rep. Lesch.

### **Conversion to Personal Use**

Minnesota Statutes section 211B.12 regulates the use of money collected for political purposes by candidate committees. The use of funds raised by a committee must be reasonably related to the conduct of election campaigns, or a noncampaign disbursement as defined in Minnesota Statutes section 10A.01, subdivision 26. The statute specifically provides that money collected for political purposes and assets of a political committee may not be converted to personal use.



The Board may impose a civil penalty of up to \$3,000 per violation on the person responsible for the conversion to personal use. Minn. Stat. § 10A.34, subd. 4.

In an October 5, 2015, letter, Rep. Lesch acknowledged that a loan reported in 2013 from him to the Committee in the amount of \$2,214.72 was not actually a loan, but was instead his repayment of campaign funds inadvertently withdrawn and used for personal expenditures in 2012. Rep. Lesch detailed in his response that he had inadvertently made a \$1,500 cash withdrawal and a \$500 electronic transfer from the Committee account on November 21, 2012, and had mistakenly used the Committee cash card to make a \$214.72 personal purchase in October of 2012. The funds were returned to the Committee account on July 26, 2013.

In his October 2016 statement, Rep. Lesch responded to the Board's request for additional information on reimbursements paid to him by the Committee, and for an explanation of transfers from the Committee account to his personal accounts. In regard to the electronic transfer of funds, Rep. Lesch stated:

During the relevant time periods, I maintained both the Lesch Committee's account and multiple personal accounts with USAA. Due to inadvertence, I made online transfers from the Lesch Committee's account to one of my personal accounts when I intended to transfer funds between my personal accounts. Upon discovering the error, I promptly transferred funds back to the Lesch Committee's account.

The Board examined both Committee and personal bank statements to confirm the amounts and dates on which the transfers of money that was later paid back occurred. Committee funds were transferred into a personal account of Rep. Lesch on five dates. In total, these transfers came to \$5,820. In four cases Rep. Lesch returned the funds to the Committee account either on the same day as the initial transfer, or within a few days of the initial transfer. The brief period of time that the Committee funds from these four transfers were in Rep. Lesch's personal account supports the Board's conclusion that Rep. Lesch did not receive personal benefit from the transferred funds.

The fifth and last transfer from the Committee account to Rep. Lesch's personal account occurred on October 28, 2014, and was for \$500. The transfer returning the funds to the Committee occurred on December 19, 2014. Therefore, Rep. Lesch had the benefit and use of the funds for about six weeks. However, there is no indication in Rep. Lesch's personal bank records that the funds were needed for payments made from that account.

Although the Board considers the above described electronic transfers to be indicative of a high level of inattention and carelessness regarding Committee funds, the Board does not find that those funds were converted to personal use. The Board's analysis confirms that Rep. Lesch's transfers returning the funds to the Committee resulted in a net transfer of \$1,000 from his personal account to the campaign account.

In his October 2016 statement, Rep. Lesch also addressed five additional transfers which he characterized as payments to reimburse him for campaign purchases made for the Committee. For each of the payments Rep. Lesch states:

I do not recall details of this transaction and am unable to locate receipts or other documentation. Consistent with the Lesch Committee's practices at the time, this payment was made to reimburse a campaign expenditure.

The five transfers in question are listed in the following table by date and amount.

<b>Date</b>	<b>Amount</b>
5/25/2010	\$627.62
10/26/2010	\$2,000.00
5/13/2011	\$2,100.00
2/25/2013	\$2,500.00
3/18/2013	\$1,500.00
<b>Total</b>	<b>\$8,727.62</b>

As detailed above, the Committee does not have receipts or invoices to document the basis of these transfers to Rep. Lesch. In addition, despite being given the time to do so, Rep. Lesch has not been able to obtain duplicate records from vendors or use his personal financial records to document or justify the payments.

The Board examined the personal bank records of Rep. Lesch for the months in which the transfers were made to confirm that the transfers were, in fact, deposited into his personal accounts. In all cases, the funds were deposited into the personal account of John Lesch. Although that examination also could have identified valid campaign expenditures or noncampaign disbursements made on the Committee's behalf from Rep. Lesch's personal accounts, had they existed, no transactions justifying the reimbursements were identified.

The Board further recognizes that in most cases, the funds transferred into Rep. Lesch's personal account were used for payments for which there would have been insufficient funds without the deposit of the Committee funds. Rep. Lesch's immediate need for resources in his personal accounts at or close to the time of the unexplained transfers further supports the Board's conclusion that the transfers were for personal use.

Rep. Lesch denies that the funds were used for personal purposes. However, absent any evidence showing that the reimbursements were for permitted campaign expenses or noncampaign disbursements, the Board concludes that those payments were used for purposes not permitted under Minnesota Statutes section 211B.12, and constituted a conversion of committee funds to personal use.

## False Certification

To help ensure that money collected for political purposes has not been converted to personal use, committees must disclose their financial transactions, including reimbursements, on reports that are filed with the Board. Minn. Stat. § 10A.20, subd. 13. The Board may impose a civil penalty of up to \$3,000 per report against a person who signs and certifies to be true a report knowing that it contains false information or knowing that it omits required information. The Board may impose an additional civil penalty of up to \$3,000 on the committee affiliated with that person. Minn. Stat. § 10A.025, subd. 2.

In this case, the record shows that the reports of receipts and expenditures filed by the Committee omitted required information and contained inaccurate information. Specifically, the purported reimbursements to Rep. Lesch in 2010 and 2011 detailed above were not disclosed on the Committee's financial reports. Although the payments to Rep. Lesch in 2013 were reported, the underlying expenditures and unpaid obligations that Rep. Lesch contends occurred in 2012 were not disclosed.

As detailed above, Rep. Lesch acknowledged that a loan reported in 2013 from himself to the Committee was, in fact, a \$2,214.72 repayment by Rep. Lesch of campaign funds withdrawn and used for personal expenditures in 2012. By misreporting the repayment as a loan, the Committee identified the funds as an obligation to be paid back to Rep. Lesch at some point in the future. Additionally, Rep. Lesch's initial removal of the \$2,214.72 from the Committee account in 2012 was never reported. This contributed to a significant variance between the year-end cash balance reported by the Committee and the actual cash balance available in the Committee's bank account.

In fact, inaccurate reporting of the Committee's year-end cash balance occurred every year from 2010 through 2014.<sup>4</sup> The following table shows the discrepancies between the reported and actual year-end cash balance of the Committee.

<b>Year</b>	<b>Reported Year-end Bank Account Balance</b>	<b>Actual Bank Account Balance</b>	<b>Difference</b>
2010	\$4,619	\$1,897	\$2,722
2011	\$4,197	\$112	\$4,085
2012	\$9,038	\$3,957	\$5,081
2013	\$10,963	\$4,106	\$6,857
2014	\$8,426	\$2,528	\$5,898

The failure to report all payments to Rep. Lesch contributed to the discrepancy, but was not the only factor. There also was a significant difference in the total receipts reported by the

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<sup>4</sup> The reported year-end cash balance for the Committee was also inaccurate in 2015 and 2016. However, the Board will exclude the Committee's 2015 and 2016 reports from the false certification analysis because the Committee was working with Board staff to address the discrepancies and errors in the Committee's reports and had provided bank statements that documented the problem prior to filing the reports.

Committee in a given year compared to the total deposits shown on the bank account statements. For example, in 2010 the Committee reported total receipts (contributions and public subsidy payments) of \$12,993. The total deposits into the bank account in 2010 amounted to \$14,851. In 2011, the Committee reported \$3,032 in total receipts; the bank statement shows deposits of \$4,415.

The total receipts and expenditures reported by the Committee in 2012, 2013, and 2014 more closely match the bank statement totals for those years. Nonetheless, given the large discrepancies between the reported cash balances and the bank account balances, it is clear that these reports also were not accurate statements of the Committee's available funds.

Ms. Lesch stated that she knew that the reports and bank statements did not match, and in explanation as to why she did not find this unusual stated:

...I just thought that, you know, sometimes bills get paid and then you make deposits, and it just –it just didn't seem strange to me that ...things roll over and the timing of things and when you pay something versus...when you get - - you have a fundraiser, that it didn't seem...strange to me that there might be a discrepancy just based on timing and when a year ends and thinks like that.

In response to a question on whether she actively compared the bank balance to a campaign finance report before submitting the report Ms. Lesch stated:

Sure. Yeah. ...And I would go through them, and just nothing ever jumped out at me as to why they weren't identical, so I really just assumed that I'm not good at this and I must have done something wrong or missed something...

Ms. Frethem and Ms. Abuzeni, who were Committee treasurers subsequent to Ms. Lesch, both testified that they were aware of the discrepancies between the year-end bank statements and the amounts shown on the Committee's reports. Both stated that the discrepancies already existed when they took over as treasurer, and that they believed that Rep. Lesch was working with Board staff to determine how to adjust the reported Committee cash balance to the amount actually in the bank account.

The financial records and testimony cited above show that the Committee's treasurers filed reports with the Board knowing that those reports contained false information regarding the year-end cash balance of the Committee, and in some cases omitted required information.

**Based on the above analysis, the Board makes the following:**

**Findings of fact**

1. The John Lesch for State Representative committee made five transfers electronically or by check to Rep. Lesch totaling \$8,727.62 in 2010, 2011, and 2013. On Committee reports, the candidate and the Committee categorized some of the transfers as reimbursements for Committee expenses and omitted others entirely. The five transfers were deposited into the personal accounts of Rep. Lesch.
2. Neither the Committee nor Rep. Lesch provided evidence to support a characterization of the \$8,727.62 in payments to Rep. Lesch as reimbursements for Committee expenses.
3. In most cases, the Committee funds transferred into Rep. Lesch's personal account were used for payments by Rep. Lesch for which there would have been insufficient funds without the deposit of the Committee funds.
4. The John Lesch for State Representative committee did not keep required records of or obtain required receipts for the \$8,727.62 that it paid to Rep. Lesch during the years 2010, 2011, and 2013.
5. In 2012, Rep. Lesch made a \$1,500 cash withdrawal from the Committee account, electronically transferred \$500 from the Committee account to his personal account, and used the Committee cash card to make a \$214.72 personal purchase. The total of these withdrawals, transfers, and purchases in 2012 was \$2,214.72.
6. Rep. Lesch repaid the Committee \$2,214.72 in 2013. In addition, Rep. Lesch transferred an additional \$1,000 from his personal account to his committee in 2014.
7. The John Lesch for State Representative committee submitted the 2010, 2011, 2012, 2013, and 2014 year-end reports of receipts and expenditures although its treasurers were aware that the year-end balances on those reports were not accurate, and that the reports omitted some amounts paid to Rep. Lesch during those years.

**Based on the analysis and the findings of fact, the Board makes the following:**

**Conclusions of law**

1. The John Lesch for State Representative committee violated Minnesota Statutes sections 10A.025, subdivision 3, and 10A.13 by failing to obtain and maintain records of the committee's receipts and expenditures from 2010 through 2013. Under Minnesota Statutes section 10A.025, subdivision 3(b) the Board may impose a civil penalty of up to \$3,000 on a committee affiliated with a treasurer who violates the recordkeeping provision.

2. The five transfers totaling \$8,727.62 paid to Rep. Lesch in 2010, 2011, and 2013, may not be classified as reimbursements for expenses allowed under Minnesota Statutes section 211B.12. The five payments to Rep. Lesch constitute a conversion of committee funds to personal use in violation of Minnesota Statutes section 211B.12. Under Minnesota Statutes section 10A.34, subdivision 4, the Board may impose a civil penalty of \$3,000 per violation of Minnesota Statutes section 211B.12.
3. Rep. Lesch made an additional \$2,214.72 in transfers, withdrawals, and purchases from Committee funds in 2012 that also result in a conversion of committee funds to personal use. Rep. Lesch has already repaid the \$2,214.72 to the Committee.
4. The total amount converted to personal use from 2010 through 2013 is \$10,942.34. Rep. Lesch has already repaid \$2,214.72 as described in conclusion of law number three and has transferred an additional \$1,000 to the Committee. Consequently, \$7,727.62 of the converted funds remains unpaid.
5. The John Lesch for State Representative committee had treasurers who in 2010, 2011, 2012, 2013, and 2014 signed and certified to be true reports for the Committee while knowing that those reports contained false information or omitted required information in violation of Minnesota Statutes section 10A.025, subdivision 2(b). Under Minnesota Statutes section 10A.025, subdivision 2(e) the Board may impose a civil penalty of up to \$3,000 on a committee affiliated with a treasurer who violates this provision.

**Based on the analysis, findings of fact, and conclusions of law, the Board issues the following:**

**Order**

1. The John Lesch for State Representative committee must file amended year-end reports for 2010 through 2016. The Committee must work with Board staff to determine how to accurately report payments to Rep. Lesch, the return of funds to the Committee, and other receipts and expenditures for which detailed information is not available. The executive director is authorized to make one-time adjustments to the Committee's reported ending cash balances as necessary to reconcile a reported cash balance with the bank balance for each reporting year. All amended reports must be filed within 75 days of the date of this order.
2. A civil penalty of \$15,000 is assessed against Rep. John Lesch personally for the five transfers that constituted conversion of committee funds to personal use. Rep. Lesch must personally pay to the state \$15,000 by check or money order made payable to the State of Minnesota. Payment must be made within 30 days of the date of this order.
3. A civil penalty in the amount of \$2,000 is assessed against the John Lesch for State Representative committee for inadequate recordkeeping in 2010, 2011, and 2012.

4. A civil penalty in the amount of \$3,000 is assessed against the John Lesch for State Representative committee for false certification of the committee's 2010, 2011, 2012, 2013, and 2014 reports.
5. The civil penalties of \$5,000 assessed against the John Lesch for State Representative committee must be paid by check or money order payable to the State of Minnesota within 30 days of the date of this order.
6. If Rep. Lesch or the John Lesch for State Representative committee does not comply with the provisions of this order, the Board's executive director may request that the attorney general bring an action on behalf of the Board for the remedies available under Minnesota Statutes section 10A.34.
7. 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.022, subdivision 5.

\_\_\_\_\_/s/ Daniel N. Rosen

Date: August 1, 2017

Daniel N. Rosen, Chair  
Campaign Finance and Public Disclosure Board