

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

SETTLEMENT AGREEMENT

IN THE MATTER OF THE COMPLAINT OF CAROL BECKER REGARDING THE MINNEAPOLIS BICYCLE COALITION, DBA OUR STREETS MINNEAPOLIS

On July 5, 2022, the Campaign Finance and Public Disclosure Board received a complaint submitted by Carol Becker regarding the Minneapolis Bicycle Coalition, which is the former name of Our Streets Minneapolis. Our Streets Minneapolis is a 501(c)(3) nonprofit that was not registered with the Board when the complaint was filed.

The complaint alleged violations of Minnesota Statutes sections 10A.03 and 10A.04, which require lobbyists to register and file reports with the Board and require a lobbyist principal to file an annual report with the Board. The complaint argued that Our Streets Minneapolis’s “own reporting shows \$89,000 of their \$500,000 budget went directly to lobbying” and that the association is “employing people to lobby who are paid over \$3,000 a year.”

The complaint included partial copies of emails allegedly sent by Our Streets Minneapolis during the time period of December 16, 2021, through June 15, 2022. Those emails asked recipients to contact members of the Minneapolis City Council in support of 24/7 bus lanes on Hennepin Avenue South, to contact the Metropolitan Council and the Hennepin County Board of Commissioners regarding the proposed Blue Line extension, and to contact the Minnesota Department of Transportation regarding its Rethinking I-94 project. The complaint asserted that those emails constitute lobbying. The complaint alleged and contained evidence that Our Streets Minneapolis used its website¹ and social media pages, including Twitter,² Facebook,³ and Instagram,⁴ to do the same.

The complaint included a partial copy of an email allegedly sent by Our Streets Minneapolis on March 17, 2022, asking recipients to contact members of the Minneapolis City Council in support of funding for Open Streets Minneapolis. The complaint included screenshots of web pages⁵ asking readers to send a pre-written email to members of the Minneapolis City Council and other city leaders asking “that the Mayor’s 2023 budget include \$100,000 of ongoing funding to support Our Streets Minneapolis in hosting” Open Streets Minneapolis events. The complaint also included a screenshot of a webpage stating that “[i]n response to public pressure, City of Minneapolis Public Works . . . committed to working with our staff to support the program in kind-to the tune of approximately \$20,000.”⁶

¹ ourstreetsmpls.org

² twitter.com/OurStreetsMpls

³ facebook.com/ourstreetsmpls

⁴ instagram.com/ourstreetsmpls

⁵ openstreetsmpls.org/funding_campaign; actionnetwork.org/letters/help-make-open-streets-minneapolis-events-more-accessible

⁶ actionnetwork.org/letters/help-make-open-streets-minneapolis-events-more-accessible/

The complaint argued that these activities show that Our Streets Minneapolis is a principal, and thereby was required to file principal reports but has failed to do so. The complaint further argued that Our Streets Minneapolis employs lobbyists who were required to register with the Board and file lobbyist reports, but have failed to do so. However, the complaint did not specify the name of any individual that should be registered as a lobbyist for Our Streets Minneapolis.

On July 18, 2022, the Board chair determined that the complaint stated prima facie violations of the lobbyist registration and reporting requirements under Minnesota Statutes sections 10A.03 and 10A.04 and of the principal reporting requirements under Minnesota Statutes section 10A.04, subdivision 6. The prima facie determination and complaint were provided to Our Streets Minneapolis the same day and Our Streets Minneapolis requested additional time to retain counsel and provide a response.

On July 27, 2022, Ms. Becker provided the Board with a supplement to the complaint, which was provided to counsel for Our Streets Minneapolis, Brian Dillon, on August 2, 2022. On August 5, 2022, the Board received lobbyist registration forms for five lobbyists representing Our Streets Minneapolis, including Alex Burns, Luis Mendoza, Ashwat Narayanan, Raquel Sidie-Wagner, and Jose Antonio Zayas Caban. Our Streets Minneapolis requested that each lobbyist registration be made retroactive to February 23, 2022. On August 9, 2022, the Board received a lobbyist disbursement report from Mr. Narayanan, covering the period from January 1, 2022, through May 31, 2022. Mr. Narayanan, as the principal's designated lobbyist and only reporting lobbyist, reported the lobbying disbursements of the principal's other four lobbyists as well as the principal itself, which is reported as \$18,351 during that period.

On August 17, 2022, Mr. Dillon provided the Board with a written response to the complaint and the supplemental information provided by Ms. Becker. Mr. Dillon disputed some aspects of the complaint but acknowledged that Our Streets Minneapolis "now recognizes that it recently began engaging in regulated lobbying activity without knowing that it had done so." Mr. Dillon stated that Our Streets Minneapolis hired additional staff in 2021 to focus on public policy and advocacy efforts. Mr. Dillon said that in February 2022 Our Streets Minneapolis "began relying on software tools to make specific calls to action for legislative or public policy outcomes that are important to the organization and its mission." Mr. Dillon stated that although Our Streets Minneapolis "spent \$125,607 on advocacy in 2021, the majority of those expenditures were to inform and educate the public on various issues and were unrelated to lobbying." Mr. Dillon disputed several specific components of the additional information submitted by Ms. Becker while asserting that lobbying activities consume only a fraction of the budget of Our Streets Minneapolis.

On August 19, 2022, Board staff requested additional information from Mr. Dillon regarding how the February 23, 2022, registration date was chosen. On August 25, 2022, Mr. Dillon provided the Board with a supplemental written response. Mr. Dillon explained that the February 23, 2022, date was chosen as that was the date the lobbyists met the registration threshold, as a result of "the organizational time and resources invested in the Twin Cities Boulevard

campaign.” Mr. Dillon further explained that Our Streets Minneapolis and its employees did not register or file reports for 2021 as neither the organization nor its employees reached the threshold requiring registration and reporting in 2021. Mr. Dillon explained this was largely due to Our Streets Minneapolis not hiring additional staff until late 2021 and focusing on training during that time. Mr. Dillon argued the emails from 2021 were not lobbying as they pertained to encouraging members of the public to “make their own voices heard” and encouraged a nonspecific vision without a “call to action on any specific legislative or administrative proposals.”

On September 7, 2022, the Board considered the matter in executive session and determined that lobbying activity as defined in Chapter 10A does not require reference to specific legislative or administrative proposals, and further, that some of the exhibits provided in the complaint are requests for individuals to contact public officials and request specific official actions. The probable cause determination issued by the Board found probable cause to believe that Our Streets Minneapolis employees, Alex Burns, Luis Mendoza, Ashwat Narayanan, Raquel Sidie-Wagner, and Jose Antonio Zayas Caban, failed to timely register as lobbyists for Our Streets Minneapolis in violation of Minnesota Statutes section 10A.03, subdivision 1, and probable cause to believe that these individuals failed to timely file one or more lobbyist reports in violation of Minnesota Statutes section 10A.04, subdivisions 1-2. The Board also found that probable cause existed to believe Our Streets Minneapolis was a lobbyist principal prior to 2022, and failed to file one or more principal reports in violation of Minnesota Statutes section 10A.04, subdivision 6. The Board ordered a formal investigation to determine when individuals were first required to register as lobbyists on behalf of Our Streets Minneapolis, and when Our Streets Minneapolis became a lobbyist principal.

The Board’s investigation focused on the activities of Our Streets Minneapolis in the years 2018 to 2021. After examining the annual reports of Our Streets Minneapolis for the years in question, staff contacted Our Streets Minneapolis for information on the “advocacy” programs described in the 2018 and 2019 annual reports, and asked for financial and staffing information related to those programs.

Board staff met with Mr. Dillon on October 18, 2022, and October 28, 2022, regarding the scope of the investigation. Mr. Dillon explained that Our Streets Minneapolis wished to fully cooperate with the investigation, but that there had been almost a total turnover in Our Streets Minneapolis staff since 2018, and that gathering the requested information would take time and considerable effort. Board staff provided Mr. Dillon with information on the potential to resolve the investigation by requesting a summary proceeding in accordance with Minnesota Rules 4525.0220, which provides that “[a] summary proceeding is an action other than a complete formal investigation that is undertaken to resolve a matter, or a part of a matter, that is the subject of a complaint, an investigation, or an audit.”

On November 15, 2022, Board staff received the formal request for a summary proceeding from Mr. Dillon on behalf of Our Streets Minneapolis. Mr. Dillon stated

At its meeting on September 7, 2022, the Board ordered an investigation into whether Our Streets or its staff members triggered lobbying registration or reporting requirements in years prior to 2022. By letter dated September 22, 2022, Board staff asked Our Streets to provide documents and information regarding Our Streets' public advocacy campaigns in years dating back to 2018.

Our Streets recognizes the issues under investigation are necessarily fact intensive inquiries, and reasonable minds might disagree on whether Our Streets' advocacy activity triggered lobbying disclosure and reporting requirements in years past. Because Our Streets and its current staff members are in compliance with applicable law and will continue to comply going forward, the balance of the Board's investigation is necessarily backward looking. Our Streets would prefer to focus its limited resources on the future, and to furthering its mission to make the streets of Minneapolis safer and more friendly to bikers, walkers and rollers of all backgrounds and identities, in all parts of the city.

These issues are suitable for resolution through a summary proceeding because Our Streets is prepared to accept the conclusion that it inadvertently engaged in lobbying in years prior to 2022, and that it remains committed to complying with all applicable lobbying laws going forward.

On December 15, 2022, the Board considered the request for a summary proceeding from Our Streets Minneapolis and approved the request.

Applicable Definitions

Lobbyist

Minnesota Statutes section 10A.01, subdivision 21, defines the term lobbyist, in relevant part, to mean an individual "engaged for pay or other consideration of more than \$3,000 from all sources in any year . . . for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials." Minnesota Statutes section 10A.01, subdivision 24, defines the term metropolitan governmental unit, in relevant part, to mean "any of the seven counties in the metropolitan area as defined in section 473.121, subdivision 2 . . . a city with a population of over 50,000 located in the seven-county metropolitan area, the Metropolitan Council, or a metropolitan agency as defined in section 473.121, subdivision 5a."

Hennepin County, the Metropolitan Council, and the City of Minneapolis are each metropolitan governmental units. Minnesota Statutes section 10A.01, subdivision 35, defines the term public official, in relevant part, to mean a "commissioner, deputy commissioner, or assistant commissioner of any state department or agency as listed in section 15.01 or 15.06," a "member, regional administrator, division director, general counsel, or operations manager of the Metropolitan Council," a "member or chief administrator of a metropolitan agency," or a county commissioner. Minnesota Statutes section 10A.01, subdivision 22, defines the term local official to mean:

a person who holds elective office in a political subdivision or who is appointed to or employed in a public position in a political subdivision in which the person has authority to make, to recommend, or to vote on as a member of the governing body, major decisions regarding the expenditure or investment of public money.

Minnesota Statutes section 10A.03, subdivision 1, requires a lobbyist to register with the Board within five days after becoming a lobbyist or being engaged by a new principal. Minnesota Statutes section 10A.04, subdivision 1, requires a lobbyist to file biannual reports with the Board.

Principal

Minnesota Statutes section 10A.01, subdivision 33, defines the term principal to mean an individual or association that:

(1) spends more than \$500 in the aggregate in any calendar year to engage a lobbyist, compensate a lobbyist, or authorize the expenditure of money by a lobbyist; or

(2) is not included in clause (1) and spends a total of at least \$50,000 in any calendar year on efforts to influence legislative action, administrative action, or the official action of metropolitan governmental units, as described in section 10A.04, subdivision 6.

Minnesota Statutes section 10A.01, subdivision 6, defines an association as “a group of two or more persons, who are not all members of an immediate family, acting in concert.”

Analysis

The “advocacy” activities described in the 2018 Our Streets Minneapolis annual report include a successful effort to have the Minneapolis City Council change the winter sidewalk clearance system. The effort included the distribution of postcards for residents to send to city council members, and organization of over 330 advocacy work group volunteers who worked on the issue. The annual report states that Our Streets Minneapolis spent \$67,174 on advocacy in 2018. The Board concludes that the 2018 advocacy program was lobbying as defined in Chapter 10A, and that the amount spent on the effort made Our Streets Minneapolis a lobbyist principal in 2018. It is unclear whether the portion of any staff member’s salary earned while communicating with public officials for Our Streets Minneapolis exceeded the \$3,000 threshold that requires registration.

Advocacy activities described in subsequent annual reports and documented in the exhibits provided with the complaint are the basis for the Board to conclude that Our Streets Minneapolis was also a lobbyist principal in 2019, 2020, and 2021. As a part of this summary proceeding the Board will not consider Our Streets Minneapolis activity that may have constituted lobbying prior to 2018.

Identifying individuals who were required to register as a lobbyist for Our Streets Minneapolis is complicated by the fact that most if not all of those individuals are no longer employed by the organization. The effort required to find former Our Street Minneapolis employees, determine if they should have registered as a lobbyist in a given year, and then convince a former employee to register, file accurate disbursement reports without records, and then terminate their registration, outweighs the value of the disclosure that may come from that effort. The Board concludes that meaningful disclosure of the lobbying activities of Our Street Minneapolis will be provided through the filing of principal reports for 2018 through 2021, and not through requiring registration of individuals as lobbyists for those years.

The Board agrees with Our Streets Minneapolis that the investigation may be resolved through a settlement agreement with the following provisions.

Settlement Agreement:

1. Our Streets Minneapolis employees, including Alex Burns, Luis Mendoza, Ashwat Narayanan, Raquel Sidie-Wagner, and Jose Antonio Zayas Caban, failed to timely register as lobbyists for Our Streets Minneapolis in violation of Minnesota Statutes section 10A.03, subdivision 1.
2. Our Streets Minneapolis employees, including Alex Burns, Luis Mendoza, Ashwat Narayanan, Raquel Sidie-Wagner, and Jose Antonio Zayas Caban, failed to timely file one or more lobbyist reports in violation of Minnesota Statutes section 10A.04, subdivisions 1-2.
3. Our Streets Minneapolis failed to file a principal report covering the years 2018, 2019, 2020, and 2021 in violation of Minnesota Statutes section 10A.04, subdivision 6.
4. Within thirty days of the settlement agreement being signed by both parties, Our Streets Minneapolis must file lobbyist principal reports for the years 2018, 2019, 2020, and 2021, reporting total lobbying expenditures made by the association during each year. Our Streets Minneapolis may use the budget for advocacy as provided in the association's annual report as the amount of lobbying disbursements made during the year, or may report another amount if documentation is provided to the Board to support that amount.
5. A civil penalty of \$4,000 is imposed against Our Streets Minneapolis for failure to timely file the principal reports for the years of 2018, 2019, 2020, and 2021 in violation of Minnesota Statutes section 10A.04, subdivision 6. Payment of the civil penalty is due within thirty days of the settlement agreement being signed by both parties.
6. Our Streets Minneapolis is not required to retroactively register individuals as lobbyists for the years 2018, 2019, 2020, or 2021. Our Streets Minneapolis agrees to evaluate the duties and compensation paid to its staff on an annual basis to ensure that the list of registered lobbyists for the association is complete and up to date.

