

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

**FINDINGS IN THE MATTER OF A COMPLAINT REGARDING THE DFL HOUSE
CAUCUS, THE MINNESOTA DFL STATE CENTRAL COMMITTEE AND THE DFL
HOUSE CAUCUS FEDERAL PAC**

Procedural Background

On July 29, 2003, Ron Eibensteiner, Chairman, Republican Party of Minnesota, (“the Complainant”) filed a complaint with the Campaign Finance and Public Disclosure Board (“the Board”) against the DFL House Caucus (“House Caucus”), the Minnesota DFL State Central Committee (“State DFL”) and the DFL House Caucus Federal PAC (“Federal PAC”) for alleged violations of Minnesota Statutes, Chapter 10A.

Specifically, the Complainant made four allegations. First, the Complainant alleged that the Federal PAC transferred funds to the State DFL which the State DFL spent on candidates regulated by Minnesota Statutes Chapter 10A (“Chapter 10A candidates”), and that at that time the Federal PAC did not provide disclosure required by Minn. Stat. §10A.27, subd. 13. Second, the Complainant alleged that the House Caucus and the Federal PAC failed to provide the necessary disclosure for the source of the funds used to support a violation of Minn. Stat. §10A.20, subd. 3 (g). Third, the Complainant alleged that because funds from the Federal PAC were spent on Chapter 10A candidates, that the Federal PAC was required to register with the Board and that their failure to register was a violation of Minn. Stat. §10A.14, subd. 1. Fourth, the Complainant alleged that the Federal PAC, the House Caucus and the State DFL attempted to circumvent the provisions of Minnesota Statutes Chapter 10A, a violation of Minn. Stat. §10A.29.

In support of his complaint, the Complainant provided a copy of the Federal PAC’s registration with the Federal Election Commission, a Republican Party of Minnesota press release regarding a similar complaint filed with the Federal Election Commission, and correspondence from the DFL House Caucus in response to the complaint filed with the Federal Election Commission.

On July 31, 2003, and August 1, 2003, the Board sent letters to: Representative Phyllis Kahn, treasurer, DFL House Caucus; Sue Ponsford, treasurer, Minnesota State DFL Central Committee; and Paul Rogosheske, treasurer, Minnesota DFL House Caucus Federal PAC.

By letter dated August 13, 2003, Representative Kahn notified the Board that an audit of the House Caucus’s records was ongoing and requested an extension to respond until September 5, 2003.

On August 21, 2003, the Board again requested a response from Mr. Rogosheske and Ms. Ponsford. On August 25, 2003, Mr. Rogosheske submitted a request for an extension to respond until September 5, 2003. Alan Weinblatt responded on behalf of Ms. Ponsford and the Minnesota State DFL Central Committee by letters dated August 26, 2003, and August 28, 2003.

In his letter dated August 26, 2004, Mr. Weinblatt requested that the Board delay issuing public findings of probable cause regarding the complaint until the “final determination by the Federal Election Commission.”

In his letter dated August 28, 2004, Mr. Weinblatt stated “all monies received by the Minnesota DFL State Central Committee from the DFL House Caucus Federal PAC in the 2002 election cycle were received only as transfers to the state DFL Federal account. No contributions or transfers were received by the Minnesota State DFL Central Committee from the DFL House Caucus PAC other than for its federal account.”

On September 5, 2003, David Kaplan, Finance Director for the Federal PAC and the House Caucus submitted a response on behalf of the Federal PAC and the House Caucus. Mr. Kaplan stated, “we have completed a thorough audit of our account and no funds from the Federal Account were spent on any non-federal campaign activity.” Mr. Kaplan admitted that the previous bookkeeper had “mistakenly transferred \$69,200.00 from the State Account to the Federal Account.” Mr. Kaplan further stated, “all of those funds have been repaid and the State Account has been fully reimbursed.” Mr. Kaplan provided amounts and dates of transfers and explained that the previous bookkeeper hid information regarding these “unauthorized transfers” until early 2003. Mr. Kaplan stated “we now have a new accounting system with improved controls so we are confident that this problem will not reoccur.”

Board staff review of candidates’ Reports of Receipts and Expenditures for calendar year 2002 disclosed no contributions to Chapter 10A candidates from the Federal PAC.

On October 27, 2003, Mr. Eibensteiner submitted an additional letter referencing information obtained from the Federal Election Commission’s web site that documented problems disclosed by the Federal PAC to the Federal Election Commission related to the calculation of shared administrative expenditures.

By letter received January 26, 2004, Mr. Weinblatt informed the Board he represented the House Caucus and the Federal PAC in addition to the State DFL. Mr. Weinblatt stated that it was his understanding “that the issues pertaining to the Federal PAC” were “still under FEC consideration.”

On February 2, 2004, the House Caucus amended their Report of Receipts and Expenditures for calendar years 2001 and 2002 to disclose the transfer of funds from the House Caucus to the Federal PAC. The House Caucus’s Report of Receipts and Expenditures for calendar year 2003 disclosed that the Federal PAC returned funds to the House Caucus.

On February 26, 2004, the Board requested additional information from Mr. Weinblatt regarding the status of the Federal Election Commission’s investigation.

Mr. Weinblatt responded on March 15, 2004, and stated that he sent correspondence to the Federal Election Commission requesting further information regarding their investigation into this matter.

On April 30, 2004, the Board requested additional information from the House Caucus. Specifically, the Board requested a copy of the audit referenced by Representative Kahn and Mr. Rogosheske, information regarding a discrepancy in the amount the Federal PAC reimbursed the House Caucus, an explanation for the change in contributions and expenditures in an amendment to the House Caucus’s report of Receipts and Expenditures for calendar year 2002, and written confirmation that the sources of all funds transferred from the House Caucus to the Federal PAC were disclosed to the Board.

On May 10, 2004, David Kaplan responded on behalf of the House Caucus and the Federal PAC. In response to the Board's request for a copy of the audit, Mr. Kaplan stated "the results of the internal audit are reflected in our amended report to both the CFB [Campaign Finance and Public Disclosure Board] and the Federal Election Commission (FEC), however no other written report of the finding of the audit were produced."

In response to the Board's inquiry regarding the discrepancy in the amount the Federal PAC reimbursed the House Caucus, Mr. Kaplan stated that the Caucus made a "technical error in dealing with joint federal/non-federal expenditures on the administrative split." The Federal PAC reimbursed a total of \$18, 500 to the House Caucus for administrative expenses.

In response to the Board's inquiry regarding an explanation of the difference in contributions and expenditures in an amendment to the House Caucus's Report of Receipts and Expenditures for calendar year 2002, Mr. Kaplan stated that this discrepancy was caused by the software program the House Caucus used in 2002, that caused "a number of Federal receipts and expenditures to be reported on our report to the CFB." Mr. Kaplan further stated that this software problem "caused many State expenditures to be omitted." Mr. Kaplan concluded his response by stating "all contributions to the House DFL Caucus State account have been disclosed to the Board."

The Board considered this matter at its meetings on August 27, 2003, September 17, 2003, October 10, 2003, November 19, 2003, December 17, 2003, February 25, 2004, April 28, 2004, and May 26, 2004. The Board's decision was based upon the complaint, Board records, Representative Kahn's response, David Kaplan's responses, Mr. Rogosheske's response, Mr. Weinblatt's responses, and information obtained from the Federal Election Commission's web site.

Based on the record before it, the Board issues the following:

EVIDENTIARY FINDINGS

1. Minn. Stat. §10A.29, defines circumvention as "redirecting a contribution through, or making a contribution on behalf of, another individual or association." There is no evidence that the Federal PAC, the House Caucus, or the State DFL attempted to circumvent the provisions of Minnesota Statutes, Chapter 10A, by redirecting a contribution through, or making a contribution on behalf of, another individual or association.
2. Minn. Stat. §10A.14, subd. 1, requires a party unit to register with the Board by filing a statement of organization no later than 14 days after the committee, fund or party unit has made a contribution, received contributions or made expenditures in excess of \$100 on Chapter 10A candidates. There is no evidence that the Federal PAC was required to file a Statement of Organization with the Board.
3. Minn. Stat. §10A.27, subd. 13, requires that any contribution from an unregistered association be accompanied by the required disclosure. There is no evidence that the transfers made by the bookkeeper were approved by any of the entities named in the complaint and there is no evidence that the transferred funds were used to elect Chapter 10A candidates.

4. Minn. Stat. §10A.20, subd. 3 (g), requires specific disclosures for sources of funds used to support Chapter 10A candidates. There is no probable cause to believe that the Federal PAC violated Minn. Stat. §10A.20, subd. 3 (g), by failing to provide the necessary disclosure for the source of the funds used to support Chapter 10A candidates, because there is no evidence these funds were used to support Chapter 10A candidates.
5. Minn. Stat. §10A.20, subd. 3 (g), requires specific disclosures for sources of funds used to support Chapter 10A candidates. There is no probable cause to believe that the House Caucus violated Minn. Stat. §10A.20, subd. 3 (g), by failing to receive the necessary disclosure for the source of the funds used to support Chapter 10A candidates, because there is no evidence these funds were used to support Chapter 10A candidates.
6. Minn. Stat. §10A.20, subd. 3 (b), requires candidates for state legislative and constitutional offices to disclose the source of all contributions in excess of \$100. Board review of reports filed by candidates indicates there is no evidence that any candidate received contributions in excess of \$100 from the Federal PAC.

Based on the above Statement of the Evidence, the Board makes the following:

FINDINGS CONCERNING PROBABLE CAUSE

1. There is no probable cause to believe that the Federal PAC, the House Caucus or the State DFL attempted to circumvent the provisions of Minnesota Statutes, Chapter 10A by redirecting a contribution through, or making a contribution to a Chapter 10A candidate on behalf of, another individual or association.
2. There is no probable cause to believe that the Federal PAC violated Minn. Stat. §10A.14, subd. 1, by failing to file a Statement of Organization with the Board because there is no evidence that the Federal PAC was required to register with the Board.
3. There is no probable cause to believe that the Federal PAC violated Minn. Stat. §10A.27, subd. 13 (b), when the Federal PAC transferred funds to the State DFL Federal account
4. There is no probable cause to believe that the State DFL violated Minn. Stat. §10A.27, subd. 13, when it accepted transfers from the Federal PAC.
5. There is no probable cause to believe that the House Caucus and the Federal PAC violated Minn. Stat. §10A.20, subd. 3 (g), by failing to provide the necessary disclosure for the source of the funds used to support Chapter 10A candidates

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

ORDER

1. The complaint alleging that the State DFL violated Minn. Stat. §10A.27, subd. 13, when it did not receive disclosure from the Federal PAC when transfers were made in calendar year 2002, is dismissed in its entirety.

2. The complaint alleging that the Federal PAC violated Minn. Stat. §10A.27, subd. 13, when it transferred funds to the State DFL is dismissed in its entirety.
3. The complaint alleging that the House Caucus violated Minn. Stat. §10A.20, subd. 3, (g), by not disclosing the source of the funds used to support state candidates is dismissed in its entirety.
4. The complaint alleging that the Federal PAC violated Minn. Stat. §10A.14, subd. 1, by failing to file a statement of organization with the Board is dismissed in its entirety.
5. The complaint alleging that the Federal PAC, the House Caucus and the State DFL violated Minn. Stat. §10A.29, by attempting to circumvent Minnesota Statutes, Chapter 10A by redirecting a contribution through, or making a contribution on behalf of, another individual or association, is dismissed in its entirety.
6. The record in this matter and all correspondence is entered into the public record in accordance with Minn. Stat. §10A.02, subd. 11. Board staff shall provide copies to Michael Brodkorb, Mr. Eibensteiner, Representative Kahn, Ms. Ponsford, Mr. Kaplan, Mr. Rogosheske and Mr. Weinblatt.

Dated: _____

Wil Fluegel, Chair
Campaign Finance and Public Disclosure Board