

Minnesota

Campaign Finance and Public Disclosure Board Meeting

Wednesday, September 6, 2023

9:30 A.M.

Blazing Star Room
Centennial Office Building

REGULAR SESSION AGENDA

1. **Approval of minutes**
 - A. August 9, 2023
2. **Chair's report**
 - A. Meeting schedule
3. **Executive director's report – No written material**
4. **Reconciliation of 2022 contributions**
5. **Enforcement report**
6. **Rulemaking update**
7. **Legal report**
8. **Other business**

EXECUTIVE SESSION

Immediately following regular session

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

.....
August 9, 2023
Blazing Star Room
Centennial Office Building
.....

MINUTES

The meeting was called to order by Chair Soule.

Members present: Asp, Flynn, Leppik, Rashid (arrived during executive director's report), Soule, Swanson

Others present: Sigurdson, Engelhardt (by Webex), Olson (by Webex), staff; Hartshorn, counsel

MINUTES (July 6, 2023)

The following motion was made:

Member Flynn's motion: To approve the July 6, 2023, minutes as drafted.

Vote on motion: Unanimously passed.

CHAIR'S REPORT

2023 meeting schedule

The next Board meeting is scheduled for 9:30 a.m. on Wednesday, September 6, 2023.

EXECUTIVE DIRECTOR'S REPORT

Mr. Sigurdson presented members with a memorandum that is attached to and made a part of these minutes. Mr. Sigurdson stated that 124 committees that used Campaign Finance Reporter have now moved their financial records to Campaign Finance Reporter Online (CFRO), and 26 committees that previously filed on paper have set up CFRO accounts. Mr. Sigurdson said that CFRO has not yet been rolled out to political party units. Mr. Sigurdson stated that Board staff intends to require filers to use CFRO to file the 2023 year-end report, due in January 2024.

Mr. Sigurdson said that the Board receives a report from the Minnesota Department of Revenue (DOR) each August regarding the political contribution refund (PCR) program. Mr. Sigurdson stated that in 2022 the DOR issued 44,710 PCR refunds in the amount of \$3,022,597, and of that amount, \$1,297,278 was issued for contributions made to candidates, and \$1,725,319 was issued for

contributions to political parties. Mr. Sigurdson explained that in 2022, contributors to RPM candidates received \$153,493 more in refunds than contributors to DFL candidates, but as a percentage of the total contributions received from individuals, the DOR refunded about 9% of contributions to RPM candidates and about 9% of contributions to DFL candidates. Mr. Sigurdson noted that the totals are impacted by the fact that Governor Walz did not sign the public subsidy agreement for the 2022 election, while his RPM opponent, Dr. Scott Jensen, did sign the public subsidy agreement. Mr. Sigurdson explained that historically, RPM party units have issued more PCR receipts than DFL party units, but for the third year in a row, individuals who contributed to DFL party units were refunded more, \$995,271, than contributors to RPM party units, \$728,533.

ENFORCEMENT REPORT

A. Discussion Items

1. Balance adjustment request – 44th Senate District DFL (Old) (20781)

Ms. Engelhardt stated that the 44th Senate District DFL (Old) is one of the party units that needs to terminate due to redistricting and its treasurer attempted to file a termination report, but it could not be filed due to a negative ending balance. Ms. Engelhardt said that the party unit paid out its remaining money and closed its bank account in May 2022.

Ms. Engelhardt explained that the party unit's 2022 year-end report listed a beginning cash balance of \$8,964.78, but the 2021 year-end report listed an ending cash balance of \$10,746.12, leaving a discrepancy of \$1,781.34 between those years. Ms. Engelhardt stated that if the 2022 beginning cash balance is changed to be the 2021 ending cash balance, and the rest of the party unit's 2022 year-end report remains the same, then the 2022 ending cash balance would be \$2,791.46.

Ms. Engelhardt said that she spoke with the party unit's treasurer, Kevin Hanstad, and he discovered that the reported ending cash balance from 2017 was also off from the bank balance. Ms. Engelhardt said that the party unit is requesting that the 2022 ending cash balance be adjusted downward from \$2,791.46 to \$0, and if that request is approved, Board staff will work with Mr. Hanstad to file an amended 2022 year-end/termination report.

Mr. Hanstad appeared before the Board by Webex. Mr. Hanstad said he did a cursory analysis going back to 2016 and the balance discrepancy began prior to the start of his tenure as treasurer in 2017. In response to a question from Member Swanson, Ms. Engelhardt stated that if the balance adjustment is not approved, Board staff will ask Mr. Hanstad for copies of the party unit's financial records, including its Campaign Finance Reporter data, then attempt to find the source of the discrepancy. In response to a question from Chair Soule, Ms. Engelhardt stated that the party unit's remaining funds were transferred to other party units in May 2022.

The following motion was made:

Member Flynn’s motion: To approve the request.

Vote on motion: Members Flynn, Leppik, and Soule voted in the affirmative.
 Members Asp, Rashid, and Swanson voted in the negative.

B. Waiver Requests

Entity	Late Fee/ Civil Penalty	Report Due	Factors and Recommended Action	Board Member's Motion	Motion	Vote on Motion
1. 1st Judicial District Republican Committee (40959)	\$100 LFF	2022 Pre-General	Report due October 31, 2022, and filed on November 2, 2022. Treasurer had questions on how to record an independent expenditure and how to file the required affidavit of contributions around the deadline for the report. Treasurer had several emails with Board staff to resolve the issues in reporting the transactions. Ending cash balance as of December 31, 2022, was \$104.36. RECOMMENDED ACTION: Waive	Leppik	Approve staff recommendation for requests 1-2	Unanimously approved
2. Campaign for Johnathan Isenor for House (18170)	\$450 LFF	2022 Year-End	Report due January 31, 2023, and filed on February 27, 2023. Candidate's treasurer is his wife. Their son was born with severe complications and was in the NICU during the reporting period. Candidate has since terminated the committee. RECOMMENDED ACTION: Waive	Leppik	Approve staff recommendation for requests 1-2	Unanimously approved

C. Informational Items

1. Payment of civil penalty for exceeding the spending limit

Stephenson (Zachary) for House, \$963.63

2. Payment of civil penalty for excess special source contributions

Simon (Steve) for Secretary of State, \$350
 Committee to Elect John Hoffman, \$100

Mark Johnson for MN Senate, \$100

3. Payment of civil penalty for excess party unit contributions

Kim Crockett for Secretary of State Committee, \$225

4. Payment of civil penalty for excess individual contributions

Campaign Fund for Huldah for Senate, \$350

5. Payment of late filing fee for 2022 year-end report of receipts and expenditures

Sarah (Hamlin) for House, \$500
Katrina Pulham for House, \$75
Dennis Smith for Attorney General, \$25

6. Payment of late filing fee for lobbyist disbursement report due June 15, 2023

John Nesse, \$150 (\$25 x 6)
Isabella Rojas, \$50 (\$25 x 2)

7. Payment of civil penalty for lobbyist principal report due March 15, 2023

Saputo Dairy Foods USA, LLC, \$550
Mission Health, \$400
Securly, Inc., \$200
Vail Place, \$75

8. Payment of late filing fee for 2022 annual EIS

Val Eisele, \$90
Jason Beyer, \$50
Kristine Nogosek, \$45
Dan Halvorsen, \$20

9. Payment of late filing fee for Original EIS

Mai Xiong, \$90

10. Partial payment of civil penalty for 2020 annual EIS

Jae Hyun Shim, \$100

11. Partial return of public subsidy due to subsidy exceeding expenditures

Neighbors for Sydney (Jordan), \$1,038.33

12. Voluntary partial return of public subsidy

Greg (Henningsen) for MN, \$19.01

13. Voluntary payment of remaining cash balance

Doug Malsom For House, \$43.92

RULEMAKING UPDATE

Mr. Olson presented members with a memorandum that is attached to and made a part of these minutes. Mr. Olson stated that on July 24, 2023, the Board's request for comments was published in the State Register, copies were mailed to members of the Senate Elections Committee and the House Elections Finance and Policy Committee, and copies were emailed to 2,709 unique recipients including those subscribed to the Board's rulemaking notice list or a list for those interested in receiving notices regarding Board meetings, decisions, and policies, and a number of organizations and officers of candidate committees, party units, and political committees and funds registered with the Board.

Mr. Olson said that the comment period will go through September 22, 2023, and the Board has thus far received three comments. Mr. Olson said that the first comment was supportive of a rule that would explicitly allow treasurers to group expenses together within campaign finance reports on a monthly basis if the expenses are for the same goods or services and from the same vendor. Mr. Olson explained that that topic was included within the Board's request for comments. Mr. Olson stated that the second comment was supportive of generally applicable limits on the amount of money a candidate may use to fund to their own committee, regardless of whether they have signed a public subsidy agreement. Mr. Olson said that that was not a topic included within the Board's request for comments and such a rule would likely violate the First Amendment under current United States Supreme Court precedent. Mr. Olson stated that the third comment was supportive of changing the format of the political contribution refund (PCR) receipt form to allow multiple small contributions from the same contributor to be grouped together for purposes of issuing a PCR receipt. Mr. Olson said that Board staff will consider the feasibility of changing the format for purposes of PCR receipts generated using the Campaign Finance Reporter Online application.

Mr. Olson stated that during the 60-day comment period Board staff will work on drafting the proposed rule language for the rules that are technical or not expected to be controversial, and staff will also begin drafting the statement of need and reasonableness (SONAR), which is a detailed explanation of why the Board feels that the proposed rules are necessary, reasonable, and authorized by law. Chair Soule noted that Board members Swanson, Asp, and Rashid have volunteered to serve on a subcommittee focused on the Board's rulemaking project.

LEGAL REPORT

Mr. Hartshorn presented members with a legal report that is attached to and made a part of these minutes. Mr. Hartshorn stated that no response has been received from Trace, so the next step in that matter is the default judgement process. Mr. Hartshorn said that a summons and complaint was delivered by a process server to an address believed to be that of Mr. Thompson and accepted by someone who stated that she was his daughter, but when the process server returned to serve the summons and complaint on the other defendant, the Thompson committee, the same person said that Mr. Thompson does not live at that address. In response to a question from Member Swanson, Mr. Olson stated that the address in question was obtained from court filings in an eviction matter involving Mr. Thompson's spouse. Following discussion the general consensus was in favor of proceeding with the default judgment process if Mr. Thompson does not respond to the complaint.

EXECUTIVE SESSION

Chair Soule recessed the regular session of the meeting and called to order the executive session. Upon recess of the executive session, Chair Soule had nothing to report into regular session.

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

Respectfully submitted,

Jeff Sigurdson
Executive Director

Attachments:
Executive director's report
Memorandum regarding rulemaking
Legal report



MINNESOTA

CAMPAIGN FINANCE BOARD

Board Meeting Dates for Calendar Year 2023

Meetings are at **9:30 A.M.** unless otherwise noted.

Wednesday, October 4

Wednesday, November 1

Wednesday, December 6



MINNESOTA CAMPAIGN FINANCE BOARD

DATE: August 30, 2023
TO: Board Members
FROM: Jeff Sigurdson
Executive Director **TELEPHONE:** 651-539-1189
SUBJECT: **Yearly Update on Reconciliation of Contributions between Registered Committees**

Background

In the fall of 2013, the Star Tribune published an article describing problems found in the database of contributions to state candidates, political party units, and political committees and funds provided to the paper by the Campaign Finance and Public Disclosure Board. In particular the Star Tribune found that it could not reconcile over \$20 million dollars in contributions reported between registered committees during the years 2000 to 2012. Staff confirmed that the problems identified in the article existed, and during the remainder of 2013, all of 2014, and the first quarter of 2015, worked to reduce the number of contributions between registered entities that did not reconcile.

At the August 2015 Board meeting staff reported to the Board on the progress made in reconciling contributions, and reported on nine steps implemented by the executive director to minimize unreconciled contributions in future reporting years. The Board directed staff to stop the active reconciliation of contributions made prior to 2014, and to report annually to the Board regarding the reconciliation of contributions for the prior reporting year. This memo provides the status of the reconciliation of contributions between registered entities reported in 2022.

Reconciliation of 2022

The 2022 year-end reports of receipts and expenditures were due on January 31, 2023. The reports were processed using procedures designed to limit the number of unreconciled contributions caused by data entry errors. These procedures include double checking the data entry of paper reports by staff and requiring treasurers to submit complete amended reports if warranted.

In Table 1 the 2022 reconciliation numbers are highlighted in grey. The years 2011 – 2021 are provided for comparison.

Table 1

Year	Total Itemized Transfers Between Registered Committees	Amount Initially Not Reconciled	Percentage Initially Reconciled	Current Amount Not Reconciled	Percentage Currently Reconciled
2011	\$4,087,836	\$500,960	87.75%	\$5,870	99.86%
2012	\$32,772,360	\$4,326,600	86.80%	\$19,614	99.94%
2013	\$4,506,703	\$417,657	90.73%	\$8,167	99.82%
2014	\$24,647,813	\$1,955,927	92.06%	\$30,561	99.88%
2015	\$5,125,778	\$530,272	89.65%	\$1,430	99.97%
2016	\$32,920,683	\$5,621,789	83.02%	\$20,858	99.94%
2017	\$5,548,494	\$180,393	96.69%	\$7,175	99.87%
2018	\$43,457,655	\$2,514,075	94.21%	\$10,500	99.98%
2019	\$8,015,000	\$363,378	95.47%	\$5,165	99.93%
2020	\$40,444,505	\$2,533,949	93.73%	\$3,065	99.98%
2021	\$7,792,135	\$645,533	91.71%	\$17,750	99.77%
2022	\$56,872,614	\$3,499,393	93.84%	\$86,717	99.84%
Totals	\$266,191,576	\$22,445,039	91.57%	\$216,872	99.92%

The reconciliation process takes considerable staff time to complete. Staff initially reached out informally through email to treasurers with a reconciliation issue and asked them to review their records on specific contributions. A significant number of problems were resolved through emails and subsequent amendments. Formal letters requiring a response were mailed to 249 candidate committees and 451 political committees and funds and party units in May and June of this year. In almost all cases, amendments were secured from the donor, the recipient, or both to resolve the discrepancies. Staff is still working with multiple committees to resolve contributions that do not reconcile.



MINNESOTA

CAMPAIGN FINANCE BOARD

Date: August 30, 2023

To: Board members
Counsel Hartshorn

From: Megan Engelhardt, Assistant Executive Director **Telephone:** 651-539-1182

Subject: Enforcement report for consideration at the September 6, 2023 Board meeting

A. Waiver Requests

#	Committee/ Entity	Late Fee/ Civil Penalty	Report Due	Factors	Prior Waivers	Recommended Action
1	Kathleen Behounek (Office of Administrative Hearings)	\$100 LFF \$1,000 CP	2022 Annual EIS	Statement due January 30, 2023, and received July 24, 2023. Ms. Behounek retired in February 2022 after 30 years with OAH in part to assist a family member with their medical conditions. She provided OAH her forwarding information, but did not update her address with the Board, so all of her reminders were sent to her address at OAH and her state email address, which was no longer active. Ms. Behounek has not filed her EIS late in her years of service. OAH forwarded her the Board's correspondence in July, and she filed within a few days. She is no longer a public official.	None	Waive

2	Michael Skaug (Agricultural Chemical Response Compensation Board)	\$30 LFF	Original EIS	Statement due June 5, 2023, and received June 28, 2023. Mr. Skaug was in the hospital with medical issues and unable to file on time.	None	Waive
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B. Informational Items

1. Payment of civil penalty for excess special source contributions

Abeler (Jim) Volunteer Committee, \$100

2. Payment of civil penalty for prohibited contribution during legislative session

Ryan Wilson for State Auditor, \$100

3. Payment of civil penalty for excess party unit contributions

Ryan Wilson for State Auditor, \$165

4. Payment of late filing fee for 2022 pre-general 24 hour notice of large contributions

Campaign Fund of Alicia (Donahue) for 54, \$250

5. Payment of late filing fee for 2022 pre-primary 24 hour notice of large contributions

Neighbors for Sheigh (Freeberg), \$250

6. Payment of late filing fee for 2022 annual EIS

Michelle Vaughn, \$75

Peter Hanley, \$35

Kathleen Behounek (Office of Administrative Hearings)

August 3, 2023

Minnesota Campaign Finance Board:

I am requesting a waiver of fees and civil penalty for not timely filing my 2022 annual statement of economic interest. I submit the following information as good cause for a waiver of the fees and penalty.

I worked for over 30 years as judge with the Office of Administrative Hearings. To the best of my knowledge, I timely filed yearly Statements of Economic Interest throughout my employment with the State.

I retired from OAH on February 2, 2022. I retired in part due to the need to take care of family member with a very serious medical condition. Since the fall of 2021, he has required significant care and medical treatment as a result of his condition and complications, including 24/7 supervision. I have been his sole caregiver since November 2021. My focus at the time I retired was completing my work at OAH, preparing retirement paperwork for the agency and the State, and providing care.

When I retired, I provided OAH with my personal email address, phone number, and home address in the event work related information was received after I left the agency.

In late 2022 through early 2023, the usual reminder letters to file a statement were sent by the Campaign Finance Board in late 2022 and early 2023, addressed to me at OAH's address.

OAH did not forward the Board's correspondence to me until July 20, 2023. OAH never contacted me by email or phone to let me know I had received correspondence from the Board.

On July 20, 2023, I received an envelope from OAH containing three unopened pieces of correspondence from the Board addressed to me. The envelope also contained an opened envelope from the Board, marked certified mail, also addressed to me. The certified letter was date stamped as received by OAH on March 6, 2022.

This was certified letter from the Board, dated March 1, 2023, instructed that I file the statement of economic interest by March 24, 2023, or a civil penalty of \$1000 would be imposed, along with accumulated late filing fees. Again, the certified letter was not forwarded and received by me until July 22, 2023.

I contacted Erika Ross, programs administrator for the Board, on July 24, 2023, the first business day after receiving the forwarded correspondence.

Ms. Ross provided assistance to help me update my personal contact information with the Board and reset my website login credentials. I then filed the Statement electronically on July 24, 2023.

Because I did not receive the Board's communications to file the 2022 statement of economic interest until it was forwarded by my former employer, and with the prompt filing of the statement after receiving the notice, I respectfully request that you find good cause exists to waive the fees and penalty for late filing of the Statement.

If you need further information or explanation, please contact me.

Thank you for your consideration.

Kathleen Behounek
kbehou@gmail.com / 612-720-9179

Michael Skaug (Agricultural Chemical Response Compensation Board)

From: [Mike Skaug](#)
To: [Ross, Erika \(CFB\)](#)
Subject: Economic interest report
Date: Wednesday, June 28, 2023 12:47:07 PM

This message may be from an external email source.
Do not select links or open attachments unless verified. Report all suspicious emails to Minnesota IT Services Security Operations Center.

I'm asking that late filing fees be waived because of medical reasons.

On April 14 ,2023 I suffered an acute pulmonary embolism that was treated in hospital ICU . Since that time I have had several clinical testing locally and Mayo of Rochester . It is only now lately that I have been able to address many of my business and personal responsibilities.

Respectfully
Mike Skaug



MINNESOTA CAMPAIGN FINANCE BOARD

Date: August 30, 2023

To: Board members
Nathan Hartshorn, counsel

From: Andrew Olson, Legal/Management Analyst **Telephone:** 651-539-1190

Subject: Rulemaking update

The comment period for the request for comments published on July 24 will continue through September 22, 2023. As of the date of this memorandum the Board has received three comments.

One comment that was received shortly before the Board's August meeting encouraged modification of the political contribution refund (PCR) receipt form to allow multiple small contributions from the same contributor to be grouped together within a single receipt. For example, if a contributor donates \$10 per month to a party unit via a recurring online contribution, the party unit's treasurer could wait until the contributor has donated the maximum amount that is eligible to be refunded within a calendar year, then issue a single PCR receipt showing the total amount contributed. That procedure is already available to treasurers when issuing PCR receipts using the paper receipt forms provided by the Board and the instructions printed on the receipt booklets describe how to group contributions together for that purpose. That procedure was approved by the Board within Advisory Opinion 360, issued in 2004.¹ However, PCR receipts may also be generated using Campaign Finance Reporter or Campaign Finance Reporter Online, and when PCR receipts are generated electronically, a separate receipt is generated for each individual contribution. As a result, a candidate committee or party unit that prints and mails electronically-generated PCR receipts for contributors who make multiple small contributions may incur additional costs for ink and postage.

Within its request for comments the Board stated that it would consider "rule adoptions, amendments, and repeals concerning other topics within Minnesota Statutes chapter 10A that may arise during the rulemaking process." While the Department of Revenue is responsible for designing the PCR application form under Minnesota Statutes section 290.06, subdivision 23,² the Board is responsible for making the PCR receipt form, which is separate, available to those eligible to issue PCR receipts under Minnesota Statutes section 10A.322, subdivision 4³. Under

¹ cfb.mn.gov/pdf/advisory_opinions/AO360.pdf

² revisor.mn.gov/statutes/cite/290.06#stat.290.06.23

³ revisor.mn.gov/statutes/cite/10A.322#stat.10A.322.4

Minnesota Statutes section 10A.02, subdivisions 12a and 13,⁴ the Board has general rulemaking authority to carry out the purposes of Chapter 10A, and also has authority to adopt rules when it “intends to apply principles of law or policy announced in an advisory opinion . . . more broadly than to the individual or association to whom the opinion was issued.” Therefore, the Board may wish to pursue adoption of a rule allowing multiple small contributions from the same contributor to be grouped together within a single electronically-generated PCR receipt, and explicitly applying the policy announced within issue one in Advisory Opinion 360 to all party units and candidate committees that are eligible to issue PCR receipts.

Board staff has begun drafting the proposed rule language for the rules that are technical or not expected to be controversial. During the remainder of the comment period, staff will begin drafting the statement of need and reasonableness (SONAR), which is a detailed explanation of why the Board feels that the proposed rules are necessary, reasonable, and authorized by law. After the comment period has ended, Board staff anticipates that a subcommittee of three Board members, including Vice Chair Asp, Member Swanson, and Member Rashid, will begin meeting and considering draft rule language.

⁴ revisor.mn.gov/statutes/cite/10A.02#stat.10A.02.12a

**CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD
September 2023**

ACTIVE FILES

Candidate/Treasurer/ Lobbyist	Committee/Agency	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Personally Served	Default Hearing Date	Date Judgment Entered	Case Status
Thompson, John	John Thompson for 67A	Civil Penalty and late filing fee for the committee's 2022 year-end report	\$1,000 LFF \$1,000 CP	3/10/23	7/5/23			
	Trace, LLC Contacts: Ashley Moore, Patrick Hynes	2021 Annual Report of Lobbyist Principal, due 3/15/22	\$1,000 LFF \$1,000 CP	12/6/22	4/21/23			Motion for default judgment served 8/29/23