

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

.....
August 6, 2013

**Room 220
Minnesota Judicial Center**

.....

MINUTES

The meeting was called to order by Chair Luger.

Members present: Beck, Luger, Oliver, Peterson, Scanlon, Wiener

Others present: Goldsmith, Sigurdson, Schroeder, Larson staff; Hartshorn, counsel

MINUTES (June 10, 2013)

Member Wiener's motion: To approve the June 10, 2013, minutes.

Vote on motion: Unanimously passed.

CHAIR'S REPORT

Board meeting schedule

The next Board meeting is scheduled for Tuesday, September 10, 2013.

EXECUTIVE DIRECTOR'S TOPICS

Executive Director Goldsmith reported on recent Board office operations.

Office operations and budget

Mr. Goldsmith informed members that with the allotted \$1,000,000 2014-15 Board budget two new staff members will be hired. Executive Director Goldsmith is currently working on the position descriptions for one full-time investigative position and one part-time clerical position. With the addition of these positions current Board staff position descriptions will be revised including the Executive Director's which has not changed in 15 years. The Executive Director position description will be brought to the Board for final approval.

Candidate handbooks have been updated to reflect the new changes in statute and posted to our website for public use.

The new hardware and software purchased to strengthen the reliability of the Board's network and information systems was purchased with a combination of fiscal year 2013 and 2014 money and has is ready for installation. The Board's IT staff expects the new system to be fully

migrated by October. With the new system staff plans a complete redesign the Board's website taking into account suggestions from users that were provided through a survey tool that the Board has used in the past. Staff will also obtain current user input through various methods.

Member Beck has been working with the Humphrey Center for the Study of Governance and Politics on the idea of holding a campaign finance disclosure seminar. The seminar would be for the purpose of examining what disclosure is currently absent in the financing of campaigns in Minnesota. It is meant to be an educational event and will hopefully be held prior to the next legislative session.

Mr. Goldsmith also reviewed the new areas of Board jurisdiction resulting from 2013 legislation and noted that findings being presented in executive session were the first to implement new standards.

Modification of policy– deposits of contributions into wrong account

Executive Director Goldsmith presented the board with a memorandum which is attached to and made a part of these minutes.

At the May 7, 2013, meeting the Board adopted a policy on handling matters where an association that operates as both a state and federal political committee deposits a contribution into the wrong account. At its June 10 meeting, the Board extended the policy to cover the parallel situation in which an association exists in its own right and has an affiliated political committee.

The Board policy requires correcting transfers to be done “promptly”. Minnesota rules define “promptly” as within ten business days. This may not be sufficient time to make a transfer if significant funds need to be raised. Staff suggests that it would be up to the Executive Director to determine whether a timeframe for a proposed transfer is reasonable or to bring the matter to the Board for a decision.

Mr. Goldsmith presented a draft resolution for Board consideration which would extend its previously adopted policy to cover the above situation.

After discussion the following resolution was made:

Member Beck's Motion:

RESOLVED: To modify the Board's policy on incorrect deposits to read as follows:

When the following conditions are met:

An association operates as both a state political committee registered with the Board and as a federal political committee registered with the Federal Election Commission or the association is not a political committee but has an affiliated state political committee that it supports;

A donation is made to the association that both the donor and the association intend to be a contribution to the federal political committee or to the association itself rather than to its affiliated state political committee;

The donation is deposited in error into the state political committee's depository;

The donation is not returned within the statutory time limit; and

The donation is transferred to the correct depository within a reasonable time after the association becomes aware of the error;

The Executive Director is delegated the authority to determine whether a proposed schedule for a correcting transfer is reasonable. In any case the Executive Director may decline to make a determination on a proposed schedule and, instead, present the matter to the Board for determination. Any case in which the Executive Director concludes that a proposed schedule is not reasonable must be presented to the Board for final determination.

In the interest of fairness and efficiency of agency operations:

The Executive Director is directed to document the matter in the file of the political committee into whose depository the donation was deposited and to notify the association of the need to exercise care in determining into which depository a receipt should be deposited.

After any transfer required under this policy is completed, the Executive Director may close the file on the matter and no violation will be recognized.

If the Executive Director recognizes a pattern of the above described mistake, the Executive Director must bring the matter to the Board for further consideration, which may conclude with the imposition of any sanctions permitted under Chapter 10A.

Vote on motion: Unanimously passed.

Ratification of Workplace Violence Policy

Executive Director Goldsmith presented the Board with a memorandum which is attached to and made a part of these minutes.

Each year the Executive Director does a review of the Board's internal controls. This review is based on many criteria, which are established by the Office of Minnesota Management and Budget. Most of the controls relate to financial management and the application of policies that will prevent financial mismanagement. However, this year MMB added a requirement that each agency review its policy and plan for the prevention of workplace violence.

As part of the annual internal controls certification, staff reviewed and updated the Prevention of Violence in the Workplace policy. The policy follows the previous version, which had been in effect for many years and was most recently reaffirmed in 2003. The new version is streamlined adaptation of the old policy eliminating some provisions that seemed to be based more on a template than on thoughtful consideration.

After discussion the following resolution was made:

Member Peterson's Motion:

RESOLVED:

That the Campaign Finance and Public Disclosure Board ratifies and confirms the Executive Director's adoption of the Workplace Violence Prevention Policy and Plan, signed June 28, 2013.

Vote on motion: Unanimously passed.

Policy regarding facially excessive contributions

Mr. Goldsmith presented the Board with a memorandum which is attached to and made a part of these minutes.

Senate File 661 was signed into law on May 24, 2013, as Chapter 138 of the Law of Minnesota effective May 25, 2013.

The law changes the limit on the size of contributions that candidates may accept from donors. Not only has the amount increased, but the aggregate amount that may be accepted is now accumulated over a two-year segment rather than over a calendar year.

The result of the law change is that a contribution accepted between January 1, 2013, and May 24, 2013, could result in a contribution limits violation based on the law in effect at the time while the same contribution would not result in a violation under the new law.

Although the new limits are not technically retroactive, they do apply in the aggregate over the entire two-year segment that ends December 31, 2014. To avoid a result that would be inconsistent with the purpose of raising the limits, staff recommended that the Board adopt a policy that if a contribution received between January 1, 2013, and May 24, 2013, did not exceed the limits established in Laws Chapter 138, the Board will take no action and would not impose penalties.

After discussion the following resolution was made:

Member Wiener's Motion:

RESOLVED:

That the Executive Director is directed to take no action and to decline to investigate any complaint based on a contribution received in 2013 if the contribution complies with all limits and conditions of Minnesota Laws, Chapter 138.

Vote on motion: Unanimously passed.

Annual Spending Plan

Mr. Goldsmith presented the Board with grid which is attached to and made a part of these minutes.

Mr. Goldsmith explained that the spending plan is essentially the Board's planned budget for the upcoming fiscal year. Mr. Goldsmith emphasized that the document presented is a plan and that the Executive Director may make adjustments to the various categories to meet the agency's needs over the fiscal year. Mr. Goldsmith also explained that although the document projects spending out to fiscal year 2015, the Board is only approving the plan for fiscal year 2014.

After discussion the following resolution was made:

Member Peterson's motion: To approve annual spending plan for fiscal years 2014.

Vote on motion: Unanimously passed.

Resolution recognizing service of Greg McCullough

Member Luger's Motion:

RESOLVED:

That the Campaign Finance and Public Disclosure Board recognizes Greg McCullough for his service from 2009 to 2013 as a member of the Board and offers this resolution in appreciation of his investment of time and energy in support of the mission and objectives of the Minnesota Campaign Finance and Public Disclosure Board.

Vote on motion: Unanimously passed.

ENFORCEMENT REPORT

Consent Items

Confirmation of the administrative termination for the following lobbyist at the request of the Lobbyist Association:

In an email received July 1, 2013, Amy Nyberg, from Midwifery NOW!, requests the lobbyist registration for Steven Marden be administratively terminated as of December 31, 2012. Mr. Marden is deceased. There are no outstanding reporting issues.

In a letter dated June 5, 2013, Benjamin Schierer, Vice President of Government Relations for Communicating for America/ Communicating for Agriculture, requests that the lobbyist registration for Wayne Nelson be terminated as of December 31, 2012, due to health reasons. There are no outstanding reporting issues.

After discussion the following resolution was made:

Member Scanlon's motion: To approve the consent items.

Vote on motion: Unanimously passed.

Discussion Items

A. Waiver Requests

<u>Name of Candidate or Committee</u>	<u>Reason for Fine</u>	<u>Late Fee Amount</u>	<u>Civil Penalty Amount</u>	<u>Factors for waiver</u>	<u>Board Member's Motion</u>	<u>Motion</u>	<u>Vote on Motion</u>
Gary Crowley Lyon SWCD	EIS	\$30	\$0	Mr. Crowley was dealing with family member's health issue. Report filed April 22.	Wiener	Waive the Late Fee.	Unanimous
Pipe Fitters Local 539	Two 24- hour notices	\$2,000- \$1,000 each	\$0	The fund uses the CFR software which did not prompt a warning to file a 24 hour notice.	Peterson	Waive the Late fees	Unanimous
Russel Hansen Lake of the Woods SWCD	EIS	\$70	\$0	Mr. Hansen was notified by letter 1/29/13 and by phone 4/3/13 of the requirement to file an EIS after being elected. The EIS was mailed on May 1.	No Motion		

B. Authorization to terminate with a balance discrepancy:

Nora Slawik, Slawik for State Representative. The committee treasurer filed a termination report on September 27, 2013, with an incorrect beginning balance. Staff contacted the treasurer to resubmit the report with the correct beginning balance which was \$510 more than first submitted. An amended termination report was filed on November 14, 2012, disclosing a balance of \$8.66. The amended report added a contribution to the DFL House Caucus. The treasurer has moved out of the country.

Staff contacted Ms. Slawik regarding the routine reconciliation audit of the 2012 reports because of a \$600 discrepancy in a contribution to the DFL House Caucus. The DFL House Caucus

reported receiving \$1,500 from the Slawik committee. The Slawik committee reported contributing \$2,100. Ms. Slawik reviewed bank records from 2009 through 2012 and could not reconcile the difference in the balance. The bank account is closed. Staff and Ms. Slawik believe the problem most likely was an expenditure that occurred prior to 2009. Ms. Slawik wishes to terminate the committee with a balance discrepancy.

After discussion the following resolution was made:

Member Peterson's motion: To approve the request to terminate of the Slawik for State Representative committee with a balance discrepancy.

Vote on motion: Unanimously passed.

Informational Items

A. Payment of a late filing fee for the June 19, 2012, pre-primary election report:

Canary Party of MN, \$300

B. Payment of a late filing fee for October 29, 10-day pre-general election report:

MPA Political Action Committee, \$150

C. Payment of a late filing fee for January 31, 2013, year-end report:

Terra Cole for State Representative , \$225

Dan Craigie for Public Office, \$25

Tom Emmer for Governor, \$50

Lyle Koenen for Senate, \$25

Lyle Koenen Volunteer Committee, \$25

Tom Ladwig for the People, \$144.34

Otter Tail Power PAC, \$50

Lake of the Woods DFL, \$250

D. Payment of late filing fee for 24-hour pre-election notice:

Tim Sanders Volunteer Committee, \$250

United Steelworkers Local 11, \$1,000

E. Payment of a late filing fee for the 2012 Annual Report of Lobbyist Principal:

American Association of Advertising Agencies, \$40

Fidelity Investments, \$5

Gillette Children's Hospital, \$5

MN Pharmacists Association, \$25

Nat'l Association of Settlement Purchasers, \$40
Teamsters Local 120, \$40
Windstream, \$65

F. Payment of a late filing fee for a Statement of Economic Interest:

Scott Balstad, Polk East SWCD, \$35
Jeremy Bolland, McLeod SWCD, \$30
Carol Johnson, Traverse SWCD, \$40
Joseph Luedtke, Pine SWCD, \$30

G. Payment of a civil penalty for the 2011 Annual Report of Lobbyist Principal:

Greater Minn Housing Fund, \$500

H. Payment of a civil penalty for exceeding the party unit aggregate contribution limit:

Metsa (Jason) for House, \$150. During 2012, the Committee accepted aggregate contributions from a party unit and terminating principal campaign committees in the amount of \$5,150. This amount exceeds the \$5,000 election year limit on contributions from party units and terminating principal campaign committees, set out in Minnesota Statutes section 10A.27, subdivision 2, by \$150. Representative Metsa entered into a conciliation agreement on July 12, 2013.

ADVISORY OPINION REQUEST

Advisory Opinion #435

Advisory Opinion 435 is non-public data and was received by the Board on July 23, 2013. Because so many of the facts on which the opinion is based apply only to the requestor it would not be possible to draft a version that did not indirectly identify the requestor. Further, while the opinion provides specific guidance to the requestor, it does not add a new subject to the body of advisory opinions used as general guidance by the regulated community. For these reasons, staff recommended that if adopted by the Board no public version of this advisory opinion be released. The Board accepted the staff recommendation.

After discussion, the following motion was made:

Member Beck's motion: To approve Advisory Opinion #435 as drafted..

Vote on motion: Unanimously passed.

LEGAL COUNSEL'S REPORT

Board members reviewed a memo from Counsel Hartshorn outlining the status of cases that have been turned over to the Attorney General's office. The Legal Counsel's Report is made a part of these minutes by reference.

Counsel Hartshorn presented to the Board Advisory Opinion 09-020 issued by the Department of Administration as well as Q&A sheet as a review of the Open Meeting Law.

EXECUTIVE SESSION

The Chair recessed the regular session of the meeting and called to order the Executive Session. Upon completion of the Executive Session, the regular session of the meeting was called back to order and the following items were reported from the Executive Session:

Findings and Order in the Matter of a Contribution Made by Joel Carlson to the Karen Clark Election Committee

The Chair reported that in its executive session, the Board made findings and issued an order in the above matter. See Findings and Order which are attached to and made a part of these minutes.

Findings and Order in the Matter of the Complaint by Mike Kennedy Regarding the Karin Housley for Senate Committee and the Board Investigation of the St. Croix Boat & Packet Company

The Chair reported that in its executive session, the Board made findings and issued an order in the above matter. See Findings and Order which are attached to and made a part of these minutes.

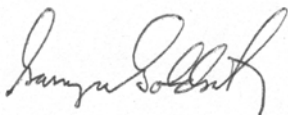
Findings and Order in the Matter of the Complaint of Diana Sweeney Regarding John Melbye

The Chair reported that in its executive session, the Board made findings and issued an order in the above matter. See Findings and Order which are attached to and made a part of these minutes.

OTHER BUSINESS

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

Respectfully submitted,



Gary Goldsmith
Executive Director

Attachments:

July 30, 2013, memorandum regarding contributions deposited into incorrect account in error
July 30, 2013, memorandum regarding the ratification of Workplace Violence Prevention Plan and Policy

August 1, 2013, memorandum regarding the policy for facially excessive contributions
FY 2014-15 Annual Spending Plan

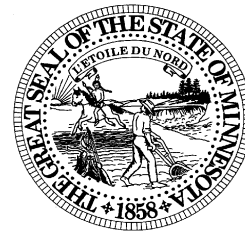
Findings and Order in the Matter of a Contribution Made by Joel Carlson to the Karen Clark Election Committee

Findings and Order in the Matter of the Complaint by Mike Kennedy Regarding the Karin Housley for Senate Committee and the Board Investigation of the St. Croix Boat & Packet Company

Findings and Order in the Matter of the Complaint of Diana Sweeney Regarding John Melbye

Minnesota

Campaign Finance and Public Disclosure Board



Date: July 30, 2013

From: Gary Goldsmith, Executive Director

Telephone: 651-539-1190

Re: Contributions deposited into incorrect account in error

On May 7, 2013, the Board adopted a policy on handling matters where an association that operates as both a state and a federal political committee deposits a contribution into the wrong account. At its June 10 meeting, the Board extended the policy to cover the parallel situation in which an association (typically a nonprofit corporation) exists in its own right and has an affiliated political committee.

Staff has recognized that in some cases, a significant amount of money may be involved and that the money may have been completely spent through the incorrect account by the time the error is recognized. For example, money intended for a federal committee may have been spent by the state committee into whose account it was incorrectly deposited. In these cases, it may take the association some time to raise the money in the account that did the spending to make the transfer to the correct account.

The Board policy requires correcting transfers to be done "promptly." Minnesota rules define "promptly" as meaning within ten business days. This may not be sufficient time to make a transfer if significant funds need to be raised. Staff suggests the change indicated in the policy below. If this change is adopted, it would be up to the Executive Director to determine whether a timeframe for a proposed transfer is reasonable or to bring the matter to the Board for a decision when in doubt or when the Executive Director does not conclude that a proposed timeline is reasonable.

Policy regarding incorrect deposit of receipts

When the following conditions are met:

An association operates as both a state political committee registered with the Board and as a federal political committee registered with the Federal Election Commission or the association is not a political committee but has an affiliated state political committee that it supports;

A donation is made to the association that both the donor and the association intend to be a contribution to the federal political committee or to the association itself rather than to its affiliated state political committee;

The donation is deposited in error into the state political committee's depository;

The donation is not returned within the statutory time limit; and

The donation is ~~promptly~~ transferred to the correct depository within a reasonable time after ~~once~~ the association becomes aware of the error;

The Executive Director is delegated the authority to determine whether a proposed schedule for a correcting transfer is reasonable. In any case the Executive Director may decline to make a determination on a proposed schedule and, instead, present the matter to the Board for determination. Any case in which the Executive Director concludes that a proposed schedule is not reasonable must be presented to the Board for final determination.

In the interest of fairness and efficiency of agency operations:

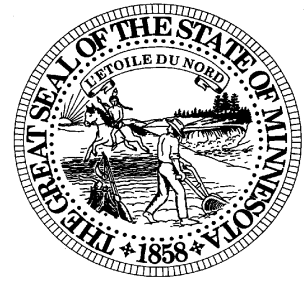
The Executive Director is directed to document the matter in the file of the political committee into whose depository the donation was deposited and to notify the association of the need to exercise care in determining into which depository a receipt should be deposited.

After any transfer required under this policy is completed, the Executive Director may close the file on the matter and no violation will be recognized.

If the Executive Director recognizes a pattern of the above described mistake, the Executive Director must bring the matter to the Board for further consideration, which may conclude with the imposition of any sanctions permitted under Chapter 10A.

Minnesota

*Campaign Finance and
Public Disclosure Board*



Date: July 30, 2013

To: Board Members

From: Gary Goldsmith, Executive Director

Telephone: 651-539-1190

Re: Ratification of Workplace Violence Prevention Plan and Policy

Each year the Executive Director does a review of the Board's internal controls. This review is based on many criteria, which are established by the Office of Minnesota Management and Budget. Most of the controls relate to financial management and the application of policies that will prevent financial mismanagement. However, this year MMB added a requirement that each agency review its policy and plan for the prevention of workplace violence.

Under statute, it is required only that an agency have a policy of that it will not tolerate violence in the workplace. However, for many years, the Board has had a policy of non-tolerance of violence backed up by more specific policies and requirements. As part of our annual internal controls certification, staff reviewed and updated the Prevention of Violence in the Workplace policy. As Executive Director, I certified the policy to MMB. However, I want the Board to be fully informed on matters such as this and, thus, I request that members review the attached policy and either ratify my certification of the plan, or direct that changes be made.

The policy follows the previous version, which had been in effect for many years and was most recently reaffirmed in 2003. The new version is a streamlined adaptation of the old policy, eliminating some provisions that seemed to be based more on a template than on thoughtful consideration of what we actually do to prevent workplace violence and what we would do if violence should occur.

For your information I am also attaching a copy of the old plan.

One point that members should be aware of is that both the old plan and the revised plan prohibit employees from carrying firearms in the workplace. Under the conceal carry statutes, we are permitted to implement this prohibition. I support it and it is consistent with the policy that has been in place for more than ten years.

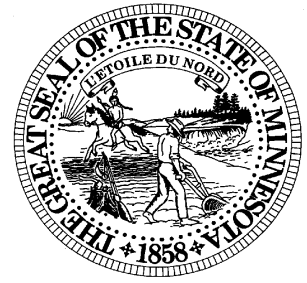
If the Board wishes to ratify the plan as is, the motion below would be appropriate. Otherwise a motion to ratify as amended by the Board would be appropriate. Finally, the Board could direct staff to work further on the policy and return a new draft at the next meeting.

Resolved, that the Campaign Finance and Public Disclosure Board ratifies and confirms the Executive Director's adoption of the Workplace Violence Prevention Policy and Plan, signed June 28, 2013.

Attachments: Plan adopted June 28, 2013
Plan reaffirmed in 2003

Minnesota

*Campaign Finance and
Public Disclosure Board*



Date: August 1, 2013

To: Board members

From: Gary Goldsmith, Executive Director

Telephone: 651-539-1190

Re: Policy regarding facially excessive contributions.

Senate File 661 was signed into law on May 24, 2013, as Chapter 138 of the Laws of Minnesota with an effective date of May 25, 2013.

Among other things, the law changes the limit on the size of contributions that candidates may accept from donors. Not only is the amount of the contribution increased, but the aggregate amount that may be accepted is now accumulated over a two-year segment rather than over a calendar year.

The result of the law change is that a contribution accepted between January 1, 2013, and May 24, 2013, could result in a contribution limits violation based on the law in effect at the time while the same contribution would not result in a violation under current law.

For example, the non-election year limit for a House candidate for 2013 was \$100 and the limit for 2014 was \$500, for a two-year total of \$600. The new aggregate limit is \$1,000 over the two-year segment. We have identified a contribution to a House committee in 2013 in the amount of \$220, which would exceed the old limit, but is within the new limits.

Although the new limits are not technically retroactive, they do apply in the aggregate over the entire two-year segment that ends December 31, 2014. To avoid a result that would be inconsistent with the purpose of raising the limits, staff recommends that the Board adopt a policy that if a contribution received between January 1, 2013, and May 24, 2013, did not exceed the limits established in Laws Chapter 138, the Board will take no action and impose no penalties even if the contribution created a violation under the law in effect before May 25, 2013.

To achieve this result, the following motion could be used:

Resolved:

That the Executive Director is directed to take no action and to decline to investigate any complaint based on a contribution received in 2013 if the contribution complies with all limits and conditions of Minnesota Laws, Chapter 138.

Campaign Finance Board - Operating budget

Acct		FY 14		FY 15	
		FTE	Amt	FTE	Amt
41000	Full time salaries	8.0	708,000	8.0	741,000
41030	Part time salaries	1.0	65,000	1.0	70,000
41070	Other Benefits		5,000		5,000
41100	Space Rental		39,966		39,966
41500	Repairs, Maint		500		500
41110	Printing and adv.		4,200		4,600
41130	Prof Tech Svcs		10,000		5,000
41145	IT Prof Tech Svcs		116,500		92,000
41150	Computer sys. & svcs		20,500		7,500
41155	Communications		7,700		9,500
41160	Travel - in state		1,400		1,400
41170	Travel - Out of state		5,400		5,400
41300	Supplies		4,804		6,404
41400	Equip. rental (copier)		2,700		2,700
41500	Maintenance contracts (copier)		1,200		1,200
47160	Equipment - non-capital		0		0
41180	Employee development		1,700		1,700
41190	OAH Rule services		4,500		5,000
43000	Other operating costs		930		1,130
47060	Capital equipment				
Expense total			1,000,000		1,000,000
General Fund Appropriation			1,000,000		1,000,000
Surplus (Shortage)			0		0

Operating Budget Detail

Acct		FTE	2014	2015
41000	Full time salaries	8	708,000	741,000
41030	Part time salaries	1	65,000	70,000
41070	Other Benefits			
	Per Diem			
	12 mtgs x 6 + 1 special (6) + 2 confirmations = 80		4,400	4,400
	Workers comp admin fee		400	400
	Contingency		200	200
41070	Total		5,000	5,000
41100	Space Rental			
	Board parking =13 mtgs x 7 permits + 4 confirmations = 95 permits @ \$5		475	475
	Office Lease		39,491	39,491
	Contingency			
41100	Total		39,966	39,966
41500	Repairs, Maint		500	500
41110	Printing and advertising			
	State Register Rulemaking		4,000	4,000
	Statute books @ \$12 each			400
	State Register misc required notices		200	200
	Total		4,200	4,600
41130	Prof Technical Services			
	Court Reporter (411313)		5,000	5,000
	Website consult/design (artistic		5,000	
	41130 Total		10,000	5,000
41145	IT Prof Technical Services			
	Govt IT symposium 3 attendees per year		1,500	1,500
	IT Training		0	5,000
	Coding/development - Web		100,000	85,500
	Consult -Elect records mgmnt		10,000	0
	Consultant - website management		5,000	0
	41145 Total		116,500	92,000
41150	Computer systems and services			
	Computing services 176.50/mo			
	Northstar + email = \$176.50/mo		2,118	2,118

	Microsoft Enterprise License		1,040	1,040
	SHI Software upgrades		12,000	0
	Installshield or similar		1,200	
	Trend Micro anti virus		300	300
	Smart SVN		125	125
	Madcap products support updates		1,200	
	XML Editor			560
	Windows Virtual Server Manager			
	Adobe Acrobat		1,000	1,000
	Dreamweaver		200	200
	Security certificates		0	1,500
	Web content management system		1,000	
	Camtasia		300	300
	Contingency		17	357
41150	Total		20,500	7,500
41155	Communications			
	Admin - Central Mail		3,200	5,000
	MN.IT WAN Services IVR/Ccnet = \$118/mo		1,416	1,416
	MN.IT VOIP, Voice and Webex		3,000	3,000
	contingency		84	84
41155	Total		7,700	9,500
41160	Travel - in state			
	Board: \$100*13 mtgs - FY 12-13		1,300	1,300
	Staff - misc		100	100
41160	Total		1,400	1,400
41170	Travel - Out of state			
	Cogel Conf and steering cmte			
	Cogel Hotel		1,400	1,400
	Cogel Air		1,500	1,500
	Meals		350	350
	Incidental		150	150
	Heartland Total		2,000	2,000
41170	Total		5,400	5,400
41300	Supplies			
	IOS office supplies		3,870	3,470
	Premium Waters		200	200
	Letterhead and env printing - Minncor			2,000
	Legal Leger - PIM and cap. rpt		238	238
	Locate Plus subscription		400	400
	Battery			

	Tape Backup			
	Memory upgrade - server			
	contingency		96	96
41300	Total		4,804	6,404
41400	Equip. rental		2,700	2,700
41500	Maintenance contracts (copy machine)		1,200	1,200
47160	Equipment - non-capital			
47160	Total		0	0
41180	Employee development			
	Cogel conf x 2		1,100	1,100
	Heartland x 2		200	200
	Staff training		400	400
41180	Total		1,700	1,700
41190	OAH Rule review/ Contested cases		4,500	5,000
43000	Other operating costs			
	Service of process fees		400	600
	Contract operations services			
	Security badges and keys		30	30
	Cogel membership		500	500
43000	Total		930	1,130
	Operating exp total		1,000,000	1,000,000
	Appropriation		1,000,000	1,000,000
	Surplus (Shortage)		0	0

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

**Findings and Order in the Matter of a Contribution Made by Joel Carlson to the
Karen Clark Election Committee**

Summary of the Facts

Minnesota Statutes section 10A.15, subdivision 5, prohibits a lobbyist registered with the Campaign Finance and Public Disclosure Board from making a contribution to a candidate without providing the lobbyist's name and registration number. A lobbyist who violates this section is subject to a civil penalty imposed by the Board of up to \$1,000. This statutory provision exists to ensure that candidates may accurately identify the source of the contribution and thereby apply the amount of the contribution against the appropriate aggregate special source contribution limit. The aggregate special source limit is the total amount that a candidate may accept from political committees or funds, lobbyists, and large donors.

The 2012 Report of Receipts and Expenditures filed with the Board by the Karen Clark Election Committee (the Committee) reported receiving a \$200 contribution from Joel Carlson. The contribution was reported as a donation from an individual. After notification from Board staff that the contribution may have been from a similarly named lobbyist, the Committee researched the contribution. A letter dated July 1, 2013, from treasurer Vernon Wetternach acknowledged that the contribution came from Joel Carlson on January 23, 2012, and that Mr. Carlson was a registered lobbyist on the date of the contribution. A copy of the contribution check was provided and no lobbyist number was written on the check.

After reclassifying the contribution, the Committee received \$7,100 in special source contributions, which exceeded by \$200 the applicable aggregate special source limit of \$6,900 for a state representative candidate.

Minnesota Statutes section 10A.15, subdivision 3, allows a candidate to return a contribution within 60 days of deposit to clear a limits violation. On July 17, 2013, the Committee returned \$200 to Mr. Carlson, but the return was not within the 60-day period. A copy of the check returning the contribution was provided by the Committee.

In response to a Board inquiry, Mr. Carlson states that he customarily provides his registration number on his checks and apologized for not providing it with his contribution.

This matter was considered by the Board in executive session on August 6, 2013. The Board's decision is based on the correspondence from Mr. Wetternach and Mr. Carlson and on Board records.

Based on the above Summary of the Facts and Relevant Statutes, the Board makes the following:

Findings

1. Joel Carlson violated Minnesota Statutes section 10A.15, subdivision 5, by contributing \$200 to the Karen Clark Election Committee without providing his lobbyist registration number with the contribution.
2. Because there was no registration number to identify the donor as a lobbyist the treasurer of the Karen Clark Election Committee accepted the donation with the belief that the contribution was from an individual, and not from a registered lobbyist.
3. The Karen Clark Election Committee has returned \$200 to Joel Carlson, thereby removing the excess contribution from its account.
4. There is no evidence to believe that the violations were intentional or done with the intent to circumvent the requirements of Minnesota Statutes Chapter 10A.

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

Order

1. The Board imposes no civil penalty on the Karen Clark Election Committee for exceeding the 2012 aggregate contribution limit from special source contributors.
2. The Board imposes a civil penalty of \$200, which is one times the amount of the contribution, on Joel Carlson for failure to provide a registration number with the contribution.
3. Joel Carlson is directed to forward to the Board payment of the \$200 civil penalty, by check or money order payable to the State of Minnesota, within 30 days of receipt of this order.
4. If Joel Carlson does not comply with the provisions of this order, the Board's Executive Director may request that the Attorney General bring an action for the remedies available under Minnesota Statutes section 10A.34.
5. The Board investigation of this matter is entered into the public record in accordance with Minnesota Statutes section 10A.02, subdivision 11, and upon payment by Joel Carlson of the civil penalty imposed herein, the matter is concluded.

Dated: August 6, 2013

Andrew M. Luger, Chair
Campaign Finance and Public Disclosure Board

Relevant Statute

Minnesota Statutes section 10A.15, subdivision 5. **Registration number on checks.** A contribution made to a candidate by a lobbyist, political committee, political fund, or party unit must show the name of the lobbyist, political committee, political fund, or party unit and the number under which it is registered with the board.

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

**Findings and Order in the Matter of the Complaint by Mike Kennedy
Regarding the Karin Housley for Senate Committee and the Board
Investigation of the St. Croix Boat & Packet Company**

The Complaint

On November 1, 2012, the Campaign Finance and Public Disclosure Board (the Board) received a complaint from Mike Kennedy, Campaign Director for the Senate DFL Caucus, regarding the Karin Housley for Senate Committee (the Committee). In his complaint Mr. Kennedy states:

On July 26 2012 Karin Housley Enterprises LLC purchased a 2006 Ford E350 truck, ... that vehicle has consistory [*sic*] been used by the Housley for Senate Volunteer as a traveling billboard advertisement for her campaign... The late report filed by the Housley committee on 11-01-2012 contains no payment for the use of this truck by the campaign, nor is there an in-kind contribution listed on that report from Housley enterprises LLC. As the photos indicate the use of this vehicle which has been moved around the district clearly exceed the \$100.00 itemization requirement, yet use of the vehicle from the source is omitted from the amended late report. The vehicle has been in use since this summer and is a significant expenditure designed to influence voters, yet they [*sic*] Housley committee has failed in meeting the reporting requirement.

Mr. Kennedy also questioned the reporting of expenditures related to a fundraiser conducted by the Committee. The complaint provides:

In addition, an expenditure for rental of the Majestic Star Yacht for a fund raising event on October 4, 2012 is also not listed on the late amended report. The fundraising event was profiled by TPT tv and is available on the Almanac website, yet this item nor any of the costs associated with it are listed on the late, amended report by Housley as either an expenditure or unpaid bill.

The report still does not provide all of the known expenditures of the Housley for Senate committee and flies in the face of required information out lined in Minnesota Statutes 10A.025, 10A.17 and 10A.20. We request the Board to promptly investigate this [*sic*] issues.

In support of his allegations Mr. Kennedy supplied:

- A copy of a State of Minnesota vehicle title registration form and a dealer reassignment form documenting the purchase of a 2006 Ford E350 truck by Karin Housley Enterprises, LLC on July 26, 2012.
- Pictures of the truck referenced in the complaint displaying advertising for the Committee

As Mr. Kennedy stated, video taken at the fundraising event on the Majestic Star was available on the public television website¹

The Board notified Senator Housley of the complaint by letter dated November 2, 2012. The Board requested that Senator Housley supply a copy of any invoices related to the cost of holding the fundraiser on the Majestic Star, and to provide information on Committee expenditures related to the use of the truck identified in the complaint. The Board asked for a response from Senator Housley by November 13, 2012.

On November 14, 2012, the Board received an e-mail from Marlon Gunderson, treasurer for the Citizens for Julie Bunn Committee. Julie Bunn was Senator Housley's opponent in the 2012 election. The e-mail referenced the complaint filed by Mr. Kennedy, and was accepted by the Board as a supplement to that complaint. In the e-mail Mr. Gunderson states:

As part of the opposition campaign to the Housley campaign, I have been concerned since the beginning of her candidacy about financial transparency and having the ability to be assured that she was properly separating her business and campaign expenses and not subsidizing one with the other, particularly since her realty business encompasses a large public relations component (radio, print, signage, other media) that largely overlaps with her campaign activities and expenses.

Mr. Gunderson went on to question if the Committee had submitted complete financial reports to the Board.

Ms. Housley's handling of the pre-general election report completely circumvented our legitimate right to examine her expenses and determine that she would be able to stay within her spending limits and be accountable to that requirement. ...We find it hard to believe that she stayed within her spending limit given the quantity and variety of media presence she had in her campaign.

After the November 13, 2012, response deadline had passed, staff left a message for Senator Housley to determine if she intended to respond to the complaint. By voice mail received on November 30, 2102, Senator Housley said that she had not received notice of the complaint, and was not aware that a complaint was outstanding. The complaint and Board correspondence were successfully provided to Senator Housley by e-mail on November 30, 2012.

The Board received Senator Housley's response to the complaint on December 7, 2012.

Initial Response and Amended Reports from Senator Housley

The initial pre-general-election Report of Receipts and Expenditures filed by the Committee was received by the Board on October 30, 2012. This report disclosed committee activity for the period January 1, 2012, through October 22, 2012. As stated by Mr. Kennedy in his complaint, the report did not contain expenditures related to the use of the truck or the fundraiser held on October 4, 2012. The report contained the same receipts and campaign expenditures that had been reported on the pre-primary-election Report of Receipts and Expenditures submitted by the Committee on July 31, 2012.

¹ http://www.mnvideovault.org/mvvPlayer/customPlaylist2.php?id=23833&select_index=9&popup=yes#9

In explanation of this reporting error Senator Housley stated in an e-mail to the Board on February 5, 2013, as follows:

My campaign treasurer was completely new at this, and had to call many times with questions. The correct report was in the system, but she had accidentally checked the wrong button for which report was to be filed. She received confirmation that the report was filed, and she thought she was good to go. When we were made aware that she had accidentally checked the wrong box of which report to file, it was immediately corrected. We paid the fine for being 24 hours late and thought it had been resolved.

The committee submitted an amended pre-general report on November 1, 2012. That report disclosed approximately \$34,000 in additional contributions and \$22,000 in additional campaign expenditures. With her response, Senator Housley response provided invoices received by the Committee for the cost of holding the fundraiser.

In response to the allegation that her committee did not report the costs related to the use of the truck wrapped with a campaign advertisement Senator Housley identified on the report filed November 1, 2012, the following expenditures:

- \$2,838.81 paid on August 3, 2012, for the cost of wrapping the truck with the campaign advertisement,
- a total of \$860 in in-kind donations and reimbursements for gas used by the truck as it was driven throughout the senate district,
- a \$600 payment made by Senator Housley for the value of using the truck as a platform for the wrapped campaign advertisement, and
- a \$72 in in-kind contribution from Senator Housley to the Committee for payments made by the Senator for the cost of parking the truck at business locations.

Senator Housley explained the basis for the \$600 payment for the use of the truck as a platform for the wrapped campaign advertisement as follows,

This number came from using House Representative Kathy Lohmer's advertising rental numbers from her Campaign Finance Report...Her treasurer did extensive research on the appropriate costs for an advertising lease on a moving vehicle. They came up with \$100.00 per month in 2010 & 2012. I doubled this to \$200/mo for the lease of the box truck because of the size of the truck, though the wrap cost the same price.

Senator Housley submitted a statement with her response that listed eight businesses where the truck had been parked during the campaign and the total payment made to each of those businesses. To explain how a parking cost for the truck was determined Senator Housley stated,

I would park the truck throughout the district at various local businesses' parking lots. I paid them one dollar a day for the placement of the "corporate signage". I came up with this number by using the decision from the Lorrie Adams/Representative Bruce Anderson case decision...where it was ruled that Representative Anderson was ordered to pay Klatt True Value Hardware \$5.00 a month to post his signs on their property...The

truck was not always parked at businesses, sometimes in driveways of individuals, or at my home.

The ruling referenced by Senator Housley was made by the Office of Administrative Hearings in 2008.² This ruling confirmed that the prohibition on corporate contributions to candidates in Minnesota Statutes section 211B.15, extends to prohibiting the in-kind contribution of space on corporate property to display a campaign sign.

In response to the complaint's allegation that the Committee failed to report expenditures related to the fundraiser held on October 4, 2012, Senator Housley provided,

The complaint references a fundraiser event ...on a boat on the St. Croix River. The food for the event was an in-kind donation by Robert Anderson and was reported on the original report. I have attached the invoice for the event...The boat did not leave the dock and the total for the three hour rental was \$300.00 paid Nov 7th.

The invoice for the fundraiser was issued to the Committee by the St. Croix Boat & Packet Company. The invoice states that the boat used for the fundraiser would be the Majestic Star, and that the boat would be available from 5 PM to 8 PM on Thursday October 4, 2012. The rental cost for using the boat is \$300. The invoice further provides that \$200 in appetizers and chips would be provided at the fundraiser, and that there would be a cash bar with proceeds from the cash bar going to the St. Croix Boat & Packet Company.

In total the invoice shows a balance due of \$500 as of the date of the invoice, which was November 7, 2012. The invoice does not indicate that the cost of the food had been paid for by Robert Anderson.

Expansion of Investigation and Responses from St. Croix Boat and Packet Company

When the Board accepts a complaint, it exercises its authority to investigate all possible violations of Chapter 10A that might arise from the conduct alleged in the complaint or from the reports under review regardless of whether the complainant clearly and specifically raises those violations in the complaint. In this case, Senator Housley's response raised two issues not included in the complaint that merited further investigation.

Both issues relate to the fact that the St. Croix Boat & Packet Company is not registered with the Board as a political committee. In 2012³, any contribution of over \$100 made by an unregistered association to a candidate's committee must be accompanied by a statement disclosing the source of funding for the association. Failure to provide the disclosure with the contribution is a violation of Minnesota Statutes section 10A.27, subdivision 13, which provides a penalty for both the unregistered association that failed to provide the disclosure statement, and the candidate's committee that accepted the contribution without the disclosure statement.

² Findings of Facts, Conclusions, and Order, #12-0320-19974-CV, available at <http://www.mn.gov/oah/multimedia/pdf/032019974.rt.pdf> .

³ Laws of 2013, Chapter 138, Article 1, section 47, increased the contribution limit from an unregistered association without disclosure to \$200.

The first issue relates to the \$200 in-kind contribution from Robert Anderson to the Committee for the food used at the fundraiser. If Mr. Anderson did use personal funds to pay the St. Croix Boat & Packet Company for the cost of the food it would be accurate to list the \$200 cost as an in-kind contribution, as reported by the Committee. But the charge for the food used at the fundraiser on October 4, 2012, was still listed as unpaid on an invoice issued to the Committee on November 7, 2012, suggesting that Mr. Anderson had not made payment.

Further, Robert Anderson is a manager with the St. Croix Boat & Packet Company. If Mr. Anderson used his authority as a manager in the company to have the cost of the food waived from the invoice instead of using personal funds for this expense, then the food would be an in-kind donation from the St. Croix Boat & Packet Company. As noted earlier the St. Croix Boat & Packet Company is an unregistered association required to provide additional disclosure if it makes a contribution of over \$100.

The second issue relates to the rental charge for the boat. The St. Croix Boat & Packet Company website lists the rental charge for use of the Majestic Star as \$2,400 for the first 2 ½ hours and \$800 for each additional hour. Even if the boat had lower operating costs because it did not leave the dock during the fundraiser, the \$300 charge to the Committee for using the boat is markedly lower than the published list price for use of the Majestic Star. If a vendor charges a candidate's committee a rate lower than fair market value for a product or service, the difference between the cost to the committee and the actual value of the item is an in-kind contribution to the political committee. Again, as an unregistered association, the St. Croix Boat & Packet Company is required to provide a disclosure statement if the value of an in-kind contribution exceeds \$100.

On December 28, 2012, Board staff sent a letter to the St. Croix Boat & Packet Company asking for verification that the food used at the fundraiser was personally paid for by Robert Anderson, and asking for the basis of the rental rate charged to the Committee for use of the Majestic Star. On January 11, 2013, the Board received a response from Robert Anderson. Mr. Anderson's response did not address the issue of who paid for the food used at the fundraiser. In answer to the Board's question about the rate charged to the Committee for the use of the Majestic Star Mr. Anderson states:

It has been the Company's policy to rent our boats at less than the listed charge shown on our website to various organizations. Among the organizations that received reduced boat rental charges in 2012 were: Salvation Army, Hope House, Veteran Memorial, MN DOT, Minnesota Conservation Department, Sunrise Rotary, etc. In all there was over \$70,000.00 of reduced boat rental charges for 2012. The two primary reasons this is done are for: marketing (getting people out on our boats, many for the first time) and creating revenues during off periods (sale of liquor, etc.) It is very rare that we turn down any organization that requests the use of our boats at a reduced boat rental charge during an off period. Had Julie Bunn requested the use of one [of] our boats at a reduced boat rental charge during an off period, it would have been granted.

Based on Mr. Anderson's response regarding the rental charge for the boat, and his lack of response to the questions about the food provided at the fundraiser, Board staff concluded that a formal investigation of the St. Croix Boat & Packet Company for possible violation of Minnesota Statutes section 10A.27, subdivision 13, was warranted. On February 21, 2013, staff sent written notification to the St. Croix Boat & Packet Company that it was now the subject of a

Board investigation into possible violations of Chapter 10A. Board staff asked the St. Croix Boat & Packet Company to provide documentation of cases where the Majestic Star was made available for functions at less than the published rental rate and documentation showing that Mr. Anderson had paid for the food. At its meeting on March 5, 2013, the Board reviewed the response provided by the St. Croix Boat & Packet Company, and ratified the Executive Director's commencement of an investigation into the company's possible violations of Chapter 10A.

A written response from Richard Anderson, Chief Executive Officer of the St. Croix Boat & Packet Company, was received on April 1, 2013. In the response Mr. Anderson provides that the cost of the food was \$300, not \$200, and that the Committee still owed the company for the cost of the food. Mr. Anderson's explanation of the food cost was so inconsistent with both Senator Housley's response and with the invoice issued by the St. Croix Boat & Packet Company that staff attempted to contact Mr. Anderson several times by phone for clarification.

On April 25, 2013, Richard Anderson returned staff's phone calls and clarified that his written response contained errors. Mr. Anderson acknowledged that he had mistaken in his letter the \$300 charge for the boat rental as the cost of the food provided at the fundraiser. Further, Mr. Anderson had searched the company records and confirmed that the Committee had paid the \$300 charge for use of the Majestic Star in November of 2012. According to Mr. Anderson, after the payment of the \$300, the Committee had no outstanding debts due to the St. Croix Boat & Packet Company.

Mr. Anderson also confirmed that the cost of the food at the fundraiser was intended to be a contribution to the Committee from Robert Anderson. Mr. Anderson was not sure if payment had been made by Robert Anderson, but said the company would collect the amount due from Robert Anderson if payment had not been made. Staff reiterated that documentation of a payment by Robert Anderson was still requested.

In his April 1, 2013, response Richard Anderson addressed the rental charge for use of the Majestic Star and provided copies of twelve invoices issued to associations where the use of a St. Croix Boat & Packet Company boat was provided at no charge. In explaining the \$300 charge for use of the boat Mr. Anderson states:

Second...the \$3,200.00 charge for a three hour rental on the Majestic Star is for a "cruise." A cruise means the boat leaves the dock and goes up and down the St. Croix River. The Majestic Star did not go up and down the St. Croix River when Ms. Housley was on board. The boat was tied up to the dock during the entire time. There was no captain on board; and the staffing consisted of a bar tender and food server. The Majestic Star was not booked for a cruise on that date. As I said in my previous letter to you, it was an opportunity to get people on board and create revenues for the sale of food (if we ever get paid), liquor and other refreshment (soda) that would not have been sold if nobody was on board. It would be similar to a bar letting a group use a portion of the bar or a side room during an off period.

Deposition of Senator Housley

Senator Housley gave a sworn statement to the Board on April 17, 2013.

During the deposition Senator Housley stated that she owned the business Karin Housley Enterprises, LLC. Senator Housley is a realtor specializing in residential properties in the St. Croix River Valley, and entered into this business in 2002.

Senator Housley acknowledged that the truck referenced in the complaint was purchased by Karin Housley Enterprises, LLC for \$9,450 on July 26, 2012. The Senator explained that she had been looking for a truck for her business for some time for use by her real estate clients in moving from one home to another. Senator Housley had been borrowing a similar-sized truck from another realtor who had wrapped the vehicle with an advertisement for his business.

In response to a question on how the truck purchase occurred Senator Housley stated:

...And this was a big move for me. I was kind of scared to spend that much money on a truck. And then to get it wrapped was going to be \$2,500 by Finishing Touches. So they finally – in July I said “Lets like do this. Let’s get this truck.” And then when they were bringing it up here to the Finishing Touch place, I said, “I have a brilliant idea. Let’s do what Kathy Lohmer did, and let’s wrap it with the senator stuff first, and then go back to wrapping it with the Karin Housley (realtor advertisement).”

Senator Housley provided for the record a picture of the truck now wrapped with an advertisement that uses the same picture that appeared in the Senate advertisement, but with new text for the real estate business. The Senator estimated that ten clients have used the truck to move, and that the truck has been made available to nonprofits for use in food drives and other functions.

In response to a question on the amount and reason for the dollar a day fee paid to businesses for parking the truck Senator Housley reiterated that the amount was based on the Office of Administrative Hearings ruling referenced in the initial response to the complaint, and then further stated,

So I was trying to – I just wanted to make sure it went on record that I did park it in these commercial places, and that I was paying them something.

During questioning on the \$600 payment to Karin Housley Enterprises, LLC for the use of the truck as an advertisement platform Senator Housley stated that she paid for the use of truck with a check, and agreed to provide a copy of the check for the investigation record. Senator Housley also agreed to provide for the record copies of checks or credit card payments used to pay for the gasoline used by the truck.

During questioning about how the fundraiser on the Majestic Star came about, Senator Housley said that she first met Richard and Robert Anderson in July of 2012 during a charity event held at the docks owned by the St. Croix Boat & Packet Company. During this event Senator Housley first discussed the idea of having a fundraiser on the Majestic Star. Senator Housley stated:

And that's when I would talk to the dock boys and the Andersons about the big boat. And then I just said, "Can I have a fund-raiser on there? Don't know how you could do that? I don't want the boat to leave the dock." And he said, "Sure, I do it all the time. Not a problem. When do you want it?" And "We have to do it on a non-weekend night."

Senator Housley further recounted that the date for the event and the details of what would occur were set sometime in September of 2012. In setting up the event Senator Housley specified that she wanted to spend no more than \$200 on food, and that there would be a cash bar with proceeds from the bar going to the St. Croix Boat & Packet Company.

Senator Housley was asked to recount the discussion she had with Richard Anderson at which the cost of using the Majestic Star was determined. Senator Housley stated,

He says – he said he does it for free all the time, and I said I would probably get in trouble if I did that, so I needed to pay him something. And he said, "Okay, we can figure that out." ...And then we just kind of came up with a figure of \$300, and he said, "That's great."

Senator Housley also recounted that she had been told, by either Richard or Robert Anderson, that the cost of the food provided at the fundraiser would be a contribution from Robert Anderson.

Documentation of Payments

One of the factors delaying the conclusion of the Board investigation was the difficulty in securing copies of checks or credit card receipts documenting payment for the food provided at the fundraiser. Despite numerous requests and assurances that the documentation would be provided, the St. Croix Boat & Packet Company never provided the Board with a copy of the check or credit card receipt used by Robert Anderson to pay for the food.

However, on June 26, 2013, Senator Housley provided by e-mail a copy of a personal check from Robert Anderson to the St. Croix Boat & Packet Company in the amount of \$200. The check is dated June 1, 2013. Senator Housley said in the e-mail that "I went down to the St. Croix Boat and Packet this past weekend...and asked for a receipt. That's what they gave me." Senator Housley also provided the requested copy of the check used to pay \$600 to Karin Housley Enterprises, LLC for the use of the truck, and the credit card receipts for gas used in the truck.

Board Analysis

Reporting Errors

In his complaint Mr. Kennedy correctly identified that the pre-general-election Report of Receipts and Expenditures filed by the Committee on October 30, 2012, was incomplete. The report contained the same data as the pre-primary report filed by the Committee on July 31, 2012, and did not contain any information on the use of the truck or the fundraiser held on the Majestic Star. Mr. Kennedy filed his complaint on November 1, 2013. The Committee, prior to receiving notification of the complaint from the Board, filed an amended report on November 1, 2013. The amended report contained all of the information related to the use of the truck as reviewed in these findings, and disclosed the in-kind contribution of the food from Robert Anderson.

This report should have also disclosed an unpaid \$300 obligation owed to the St. Croix Boat & Packet Company for the boat rental. This omission was not corrected until the Committee filed the year-end Report of Receipts and Expenditures.

The Committee did not understand that under Chapter 10A, a committee incurs an expenditure on the date that the obligation to pay the expense is incurred or that these expenses must be listed as unpaid on the next report even if an invoice for the expenditure has not been received.⁴ In this case the Committee incurred the cost of renting the Majestic Star on the date that the fundraiser occurred, which was October 4, 2012. The Committee's pre-general-election Report of Receipts and Expenditures should have included the rental fee as an unpaid bill because this report discloses all financial activity during the period of January 1, 2012, through October 22, 2012. Instead, the Committee disclosed the boat rental as an expenditure only after an invoice was issued by the St. Croix Boat & Packet Company on November 7, 2012.

When the Committee became aware of the error in the initial filing of the pre-general-election report it submitted the correct report that it believed fixed the omission. Changes and corrections to previously filed reports are not penalized under Chapter 10A as long as the amendments are filed promptly after the treasurer becomes aware of an error. In the present case, these findings will serve as an amendment to the Committee's 2012 pre-general-election Report of Receipts and Expenditures disclosing the \$300 unpaid obligation to the St. Croix Boat & Packet Company for the boat rental.

Value of Truck Wrapped with Campaign Material

Mr. Gunderson's supplement to the complaint submitted by Mr. Kennedy questions the separation between the finances of the Committee and the operations of Karin Housley Enterprises, LLC. The Board investigated the expenditures related to the cost of the truck to ensure that use of the truck was not an unreported in-kind contribution from Karin Housley Enterprises, LLC to the Committee.

The question of whether using a vehicle wrapped with campaign material creates a campaign expenditure for the committee benefiting from the campaign material was addressed by the Board in Advisory Opinion 408, issued on May 4, 2010. This opinion was not issued to Senator Housley and therefore is not directly applicable to the facts in this case. However, the opinion does outline the factors that the Board will consider to determine if a committee has paid fair market value for a vehicle wrapped with campaign material.

The opinion provides in part:

There is some difficulty in valuing an in-kind contribution such as the one the Committee describes. The applicable standard is to determine the fair market value of the transaction. The period of valuation should be reasonable and consistent with industry or other standards if they exist. In the case of valuation of an advertising vehicle, a one-month period would be reasonable.

The Committee must use a reasonable method to determine fair market value of the advertising. A method is reasonable if it takes into account markets and other relevant factors. A committee valuing a transaction must

⁴ As required by Minnesota Statutes, section 10A.01, subdivision 9, and Minnesota Rules, part 4503.1800, subpart 2.

be able to explain its method of valuation and show why the method was reasonable. It is not sufficient to merely pick a number and apply it.

Although an advisory opinion does not set precedent, the Board believes that Advisory Opinion 408 correctly sets forth the process for determining the value of an in-kind contribution of the use of a wrapped vehicle. The Committee relied on market information and costs for wrapping a family car researched and incurred by another candidate's committee in 2010 and 2012. The Committee then decided to double the monthly rate paid for use of the truck in recognition of the larger size of the truck. Doubling the market value of a wrapped car may or may not reflect market value for wrapping the truck. Staff research indicates that the most significant factor in determining the value of wrapping a vehicle is not the size of the automobile but rather the exposure of the vehicle as measured by the number of miles the vehicle is driven each month and, in some cases, the routes on which the vehicle is driven.

While the truck was driven in some local parades, and driven to and parked at high school football games, its primary role for the Committee was to sit in parking lots as a stationary campaign sign. Given this exposure and the other facts known to the Board, the Board finds that it has no basis to conclude that the payment to Karin Housley Enterprises, LLC for wrapping the truck is not reasonable. The Committee is cautioned that if it decides to wrap the truck for the 2016 campaign it should first update its calculation of fair market value to take into account current data for the market where the vehicle will be used.

The payments by the Committee to businesses for parking the wrapped truck appear to be consistent with the decision of the Office of Administrative Hearings used by Senator Housley in determining that payment for displaying a sign was required. The Board now has authority to promulgate administrative rules on this subject, and may do so to provide a firmer guideline to campaign committees. But at this time the Board has no basis to determine that the payments to cover the value of parking the truck on corporate property were not reasonable.

Investigation of the St. Croix Boat & Packet Company

As detailed in these findings the purpose of the Board investigation of the St. Croix Boat & Packet Company was to determine whether the company itself or Robert Anderson, individually, had provided the food used at the fundraiser, and if the rental cost of using the Majestic Star was so below market value as to represent an in-kind contribution to the Committee from an unregistered association.

The evidence supports the Committee's characterization of the cost of the food used at the fundraiser as a \$200 in-kind contribution from Robert Anderson. Chapter 10A does not require campaign committees to verify in-kind contributions by obtaining a copy of the check used to pay for the donated item. Senator Housley testified she was told the food would be a contribution from Robert Anderson, and Richard Anderson confirmed that the Senator was told that the food would be a contribution. There was no reason for Senator Housley to doubt that was the case.

Although there was reason to question whether Robert Anderson was the actual contributor of the food when the Board expanded its investigation, the June 1, 2013, check from Mr. Anderson to the St. Croix Boat & Packet Company has resolved this issue.

The documentation provided by the St. Croix Boat & Packet Company also has resolved the issue of whether the reduced boat rental rate was a contribution from the Company to the Committee. Although the published rate for the Majestic Star is much higher than the rate

charged to the Committee, the Company showed that the published price is for a cruise, which requires the use of the engines and a captain and crew. These things are not required when the vessel remains tied to the dock.

Further Mr. Anderson provided additional documentation showing that it is not unusual for the Company to allow other groups to use its vessels as meeting spaces for no charge when there is no cruise scheduled for a given boat. Providing the use of the boat for free to groups gives the Company cash flow from food and beverage sales that would not have occurred if the boat remained unused.

Given these facts, the Board cannot conclude that the St. Croix Boat & Packet Company gave the Committee the use of a boat for a fundraising event at a cost lower than the cost offered to other groups during a time when a boat is not needed for a cruise. Therefore, the Board does not find that the St. Croix Boat & Packet Company made an in-kind contribution to the Committee.

Based on the above Review and Analysis and the Relevant Statutes, the Board makes the following:

Findings

1. The Karin Housley for Senate Committee failed to file a complete 2012 pre-general-election Report of Receipts and Expenditures on October 30, 2012.
2. The reporting errors of the Karin Housley for Senate Committee were inadvertent and have been corrected by amendment.
3. The Karin Housley for Senate Committee's use of the truck owned by Karin Housley Enterprises, LLC did not result in an in-kind contribution to the Karin Housley for Senate Committee.
4. The St. Croix Boat & Packet Company did not make an in-kind contribution of food used at a fundraiser to the Karin Housley for Senate Committee on October 4, 2012.
5. The St. Croix Boat & Packet Company did not make an in-kind contribution of services below fair market value when the Karin Housley for Senate Committee held a fundraiser on a company boat on October 4, 2012.

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

Order

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.02, subdivision 11.

Dated: August 6, 2013

Andrew M. Luger, Chair
Campaign Finance and Public Disclosure Board

Relevant Statutes

Minnesota Statutes section 10A.01

Subd. 9. **Campaign expenditure.** "Campaign expenditure" or "expenditure" means a purchase or payment of money or anything of value, or an advance of credit, made or incurred for the purpose of influencing the nomination or election of a candidate or for the purpose of promoting or defeating a ballot question.

An expenditure is considered to be made in the year in which the candidate made the purchase of goods or services or incurred an obligation to pay for goods or services.

An expenditure made for the purpose of defeating a candidate is considered made for the purpose of influencing the nomination or election of that candidate or any opponent of that candidate....

Minnesota Statutes section 10A.27

Subd. 13. Subd. 13. **Unregistered association limit; statement; penalty.** (a) The treasurer of a political committee, political fund, principal campaign committee, or party unit must not accept a contribution of more than \$100 from an association not registered under this chapter unless the contribution is accompanied by a written statement that meets the disclosure and reporting period requirements imposed by section 10A.20. This statement must be certified as true and correct by an officer of the contributing association. The committee, fund, or party unit that accepts the contribution must include a copy of the statement with the report that discloses the contribution to the board. This subdivision does not apply when a national political party contributes money to its affiliate in this state.

(b) An unregistered association may provide the written statement required by this subdivision to no more than three committees, funds, or party units in a calendar year. Each statement must cover at least the 30 days immediately preceding and including the date on which the contribution was made. An unregistered association or an officer of it is subject to a civil penalty imposed by the board of up to \$1,000, if the association or its officer:

(1) fails to provide a written statement as required by this subdivision; or

(2) fails to register after giving the written statement required by this subdivision to more than three committees, funds, or party units in a calendar year.

(c) The treasurer of a political committee, political fund, principal campaign committee, or party unit who accepts a contribution in excess of \$100 from an unregistered association without the required written disclosure statement is subject to a civil penalty up to four times the amount in excess of \$100.

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

**Findings and Order in the Matter of the Complaint of Diana Sweeney
Regarding John Melbye**

The Allegations of the Complaint

On July 8, 2013, the Campaign Finance and Public Disclosure Board accepted a complaint from Diana Sweeney. This complaint alleges that the 2012 year-end report of receipts and expenditures filed by Judge John Melbye does not list postage costs for a bulk mailing of his campaign literature.

In addition to the allegations in the complaint, the Board determined that the expenditure information provided on Judge Melbye's year-end report was incomplete because the vendor's name and address and the purpose of the expenditure were not listed for every expense. The Board also determined that although Judge Melbye's year-end report showed that he had not accepted any outside contributions, it did not specify that he had used only his own money to fund his campaign. On July 9, 2013, the Board notified Judge Melbye that he needed to amend his report to include all information required by Minnesota Statutes Chapter 10A.

The Investigation

Judge Melbye submitted a response to the complaint on July 15, 2013. Judge Melbye explained that the report form he used was the one given to him when he filed for office. He did not realize that this form was to be used only by local candidates. With his response, Judge Melbye submitted an amended report on the form used by state candidates.

Judge Melbye did not form a principal campaign committee because he used only his own money for his campaign. A candidate who is self-funded is not required to form a principal campaign committee. On his amended report, Judge Melbye specified that he was the source of all of the money spent by his campaign.

In his response, Judge Melbye stated that he had used one printing company for all of his campaign literature. This company prepared and mailed six pieces of literature. The company included the postage in the total cost charged to Judge Melbye for each piece. Judge Melbye reported some expenditures for campaign literature on his year-end report but did not specify that these expenditures included both the printing and the mailing of a piece.

Judge Melbye also said that when he was preparing his amended report, he realized that he had inadvertently omitted three campaign literature expenditures from his original year-end report. Judge Melbye included the three omitted expenditures on his amended report. He also submitted invoices from the printing company to support all of his printing and mailing expenditures.

Finally, on the amended report, Judge Melbye listed the name and address of every vendor to which he had paid more than \$100 and disclosed the purpose of each expenditure.

Board Analysis

The Board has the authority to investigate all reports filed with it under Minnesota Statutes Chapter 10A. When the Board accepts a complaint, it exercises that authority to investigate all possible violations of Chapter 10A that might arise from the conduct alleged in the complaint or from the reports under review regardless of whether the complainant clearly and specifically raised those violations in the complaint.

The issue raised by the complaint and the Board's review of Judge Melbye's 2012 year-end report is whether Judge Melbye properly reported all contributions received and all expenditures made for that year. One of the purposes of Minnesota Statutes Chapter 10A is to promote accurate disclosure of a candidate's financial transactions so that the public can know how the candidate is raising and spending money. To further this goal, Minnesota Statutes section 10A.20, subdivision 3, requires a candidate to disclose on his campaign finance reports the name and address of anyone who contributes more than \$100 to the candidate. This statute also requires a candidate to report the name and address of anyone to whom the candidate paid more than \$100 and to state the purpose of those expenditures.

A candidate who spends only his own money on a campaign is not required to register a campaign committee with the Board. See Minn. Stat. § 10A.105, subd. 1 (registration requirement applies only when candidate accepts more than threshold amount in contributions from sources other than self). Minnesota Statutes section 10A.20, subdivision 6, however, provides that a candidate who does not form a committee still must file reports of receipts and expenditures with the Board. Those reports must disclose the information listed in Minnesota Statutes section 10A.20, subdivision 3.

In this matter, the initial year-end report filed by Judge Melbye did not contain all the statutorily required information about the source of his campaign funds. Three expenditures for campaign literature also were omitted from the year-end report. The report did not include the name and address of every entity to which Judge Melbye made expenditures in excess of \$100 or the purpose of every expense. Because Judge Melbye's report did not list the purpose of each expense, it was not clear that the expenditures to the printing company included both the printing and the mailing costs for his campaign literature. Given these omissions, Judge Melbye's initial year-end report did not comply with Minnesota Statutes section 10A.20, subdivision 3.

Minnesota Statutes section 10A.025, subdivision 2, provides that any individual who signs and certifies to be true a campaign finance report knowing that it contains false information or omits required information is subject to criminal and civil penalties. There is no evidence in the record suggesting that at the time he signed the initial report, Judge Melbye recognized that some expenses had been inadvertently omitted.

A candidate can remedy an inadvertent violation of the reporting requirements in Chapter 10A by amending his report. In the present case, Judge Melbye submitted an amended report that included all of his printing expenditures, the names and addresses of every entity to which he paid more than \$100, and the purpose of each expenditure. The amended report also specified that Judge Melbye had used only his own money to fund his campaign. When a reporting violation related to the inadvertent omission of a contribution or an expenditure is timely cured by an amendment to the report, Chapter 10A does not provide for the imposition of a civil penalty.

Based on the evidence before it and the above analysis the Board makes the following:

Findings

1. Judge John Melbye's 2012 year-end report of receipts and expenditures did not include all of the contribution and expenditure information required by Minnesota Statutes section 10A.20, subdivision 3.
2. The omission of the required contribution and expenditure information was inadvertent, not knowing.
3. Judge Melbye timely filed an amended report that included all of the contribution and expenditure information required by Minnesota Statutes section 10A.20, subdivision 3.

Conclusion

The timely filed report cured the reporting violations in this matter and there are no grounds for the imposition of a civil penalty.

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

ORDER

The Board's investigation of this matter is concluded and hereby made a part of the public records of the Board pursuant to Minnesota Statutes section 10A.02, subdivision 11.

Dated: August 6, 2013

Andrew M. Luger, Chair
Campaign Finance and Public Disclosure Board

Relevant Statutes

Minn. Stat. § 10A.025, subd. 2. Penalty for false statements. A report or statement required to be filed under this chapter must be signed and certified as true by the individual required to file the report. The signature may be an electronic signature consisting of a password assigned by the board. An individual who signs and certifies to be true a report or statement knowing it contains false information or who knowingly omits required information is guilty of a gross misdemeanor and subject to a civil penalty imposed by the board of up to \$3,000.

Minn. Stat. § 10A.20, subd. 3. Contents of report. (c) The report must disclose the sum of contributions to the reporting entity during the reporting period.

. . . .

(b) The report must disclose the name, address, and employer, or occupation if self-employed, of each individual or association that has made one or more contributions to the reporting entity, including the purchase of tickets for a fund-raising effort, that in aggregate within the year exceed \$100 for legislative or statewide candidates or ballot questions, together with the amount and date of each contribution, and the aggregate amount of contributions within the year from each source so disclosed. A donation in kind must be disclosed at its fair market value. An approved expenditure must be listed as a donation in kind. A donation in kind is considered consumed in the reporting period in which it is received. The names of contributors must be listed in alphabetical order. Contributions from the same contributor must be listed under the same name. When a contribution received from a contributor in a reporting period is added to previously reported unitemized contributions from the same contributor and the aggregate exceeds the disclosure threshold of this paragraph, the name, address, and employer, or occupation if self-employed, of the contributor must then be listed on the report.

. . . .

(g) The report must disclose the name and address of each individual or association to whom aggregate expenditures, including approved expenditures, have been made by or on behalf of the reporting entity within the year in excess of \$100, together with the amount, date, and purpose of each expenditure and the name and address of, and office sought by, each candidate on whose behalf the expenditure was made, identification of the ballot question that the expenditure was intended to promote or defeat, and in the case of independent expenditures made in opposition to a candidate, the candidate's name, address, and office sought. A reporting entity making an expenditure on behalf of more than one candidate for state or legislative office must allocate the expenditure among the candidates on a reasonable cost basis and report the allocation for each candidate.