

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

.....
March 3, 2021

Meeting conducted remotely though Webex due to COVID-19 pandemic

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MINUTES

The meeting was called to order by Chair Swanson.

Members present: Flynn, Haugen, Leppik, Rashid, Rosen, Swanson

Others present: Sigurdson, Engelhardt, Olson, Pope, staff; Hartshorn, counsel

The meeting did not strictly follow the order of business set forth in the agenda.

MINUTES (February 3, 2021)

After discussion, the following motion was made:

Member Leppik's motion:	To approve the February 3, 2021, minutes as drafted.
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Vote on motion:	A roll call vote was taken. All members voted in the affirmative.
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CHAIR'S REPORT

A. 2021 meeting schedule

The next Board meeting is scheduled for 10:00 a.m. on Wednesday, April 7, 2021.

ENFORCEMENT REPORT

A. Consent items

- 1. Administrative termination of lobbyist Robert Hentges (6533)**
- 2. Administrative termination of lobbyist Ronald Jerich (6769)**

While Mr. Olson was resolving meeting access issues, members considered the items on the consent agenda. Item one involved Robert Hentges who was registered as a lobbyist for a single principal. A friend of Mr. Hentges had contacted Board staff to explain that Mr. Hentges was unable to file a lobbyist disbursement report due to health issues. Board staff contacted the principal, which explained that Mr. Hentges had not lobbied on its behalf since 2016. Board staff administratively terminated the lobbyist registration of Mr. Hentges as of December 31, 2016. Mr. Hentges had no lobbyist disbursement reports outstanding.

Item two involved Ronald Jerich who had died on February 2, 2021. Board staff administratively terminated his lobbyist registrations on behalf of 15 principals as of that date. Michael Jerich had filed registration forms making himself the designated lobbyist for the principals for whom Ronald Jerich was previously the designated lobbyist.

After discussion, the following motion was made:

Member Flynn's motion: To approve the items on the consent agenda.

Vote on motion: A roll call vote was taken. All members voted in the affirmative.

B. Discussion Item

1. NARAL Pro-Choice Minnesota Election Fund (30552), NARAL Pro-Choice Minnesota (30638), NARAL Pro-Choice Minnesota (5837), and lobbyist Maggie Meyer (4636) – Late fees and civil penalties for multiple reports and balance adjustment request

Mr. Olson told members that the NARAL Pro-Choice Minnesota Election Fund (NARAL PCMEF) was a political fund and NARAL Pro-Choice Minnesota (NARAL PCM) was an independent expenditure political fund. The supporting association of each fund was NARAL Pro-Choice Minnesota, which also was a lobbyist principal. Mr. Olson said that Maggie Meyer was a lobbyist for the principal and had served as the treasurer of both funds since becoming the executive director of NARAL Pro-Choice Minnesota in August 2019.

Mr. Olson briefly reviewed the history of the matter. Mr. Olson said that a staff review had been opened in August 2019 because candidates had reported receiving contributions from NARAL PCMEF in 2018 but the fund had not filed any reports for that year. The staff review revealed reporting issues for both funds for the years 2013, 2014, 2016, and 2017 and the need for an adjustment to the ending cash balance on NARAL PCM's 2012 report. Mr. Olson said that he prepared all the necessary draft reports and forwarded them to Ms. Meyer in March 2020 for review and signature. Mr. Olson also told Ms. Meyer that she could ask the Board to waive the \$4,000 in late fees that had occurred for the reports that were not timely filed. Despite numerous calls and emails to Ms. Meyer, she did not file any of the required reports.

Mr. Olson also told members that NARAL Pro-Choice Minnesota had incurred an additional \$4,000 in late fees and civil penalties due to its failure to timely file its 2018 and 2019 lobbyist principal reports. In August 2020, the matter was referred to the attorney general's office for legal action. In January 2021, Ms. Meyer incurred an additional \$450 in late filing fees because she did not timely file her lobbyist disbursement report. Mr. Olson said that a summons and complaint were served on Ms. Meyer on January 26, 2021.

Mr. Olson stated that in February 2021, Kristin Nierengarten, counsel for NARAL Pro-Choice Minnesota, contacted him to discuss resolving the matter. Ms. Meyer then filed the required reports. Mr. Olson said that Ms. Meyer also asked the Board for a \$259.37 downward adjustment to the ending cash balance on the NARAL PCM's 2012 year-end report and to waive the late filing fees and civil penalties listed below:

- Three late filing fees of \$1,000 each for the 2014 year-end, 2018 pre-primary, and 2018 pre-general reports for the NARAL PCMEF (regular political fund)
- A late filing fee of \$1,000 for the 2016 year-end report for NARAL PCM (IE political fund)
- Two late filing fees of \$1,000 each and two civil penalties of \$1,000 each for the 2018 and 2019 annual reports of lobbyist principal
- A late filing fee of \$450 for Ms. Meyer's lobbyist disbursement report due January 15, 2021

After Mr. Olson's presentation, Maggie Meyer, executive director of NARAL Pro-Choice Minnesota, addressed the Board. Ms. Meyer apologized for the delay in filing the reports. She explained that this was her first executive director position and that there had been outsized challenges in her first year, including COVID and the death of George Floyd, that had caused her to lose track of the reporting issues. Ms. Meyer said that NARAL Pro-Choice Minnesota had adopted new procedures to prevent the reporting issues from occurring again, including requiring its finance committee to review and sign off on all reports before filing. The entity also had hired an outside consultant to prepare its reports. Ms. Meyer then answered questions from members.

Kristin Nierengarten, counsel for NARAL Pro-Choice Minnesota and a member of its board, spoke next. Ms. Nierengarten said that NARAL Pro-Choice Minnesota board members were aware of the reporting issues and were committed to correcting them. Ms. Nierengarten also answered questions from Board members.

After discussion, the following motion was made:

Member Rosen's motion:

To approve the requested balance adjustment and to reduce each late filing fee and civil penalty by 50%.

Vote on motion:

A roll call vote was taken. Motion passed (Five ayes, Rashid voted nay).

C. Waiver requests

Name of Candidate or Committee	Late Fee & Civil Penalty Amount	Reason for Fine	Factors for Waiver and Recommended Action	Board Member's Motion	Motion	Vote on Motion
Darnella (Wade) Go Green (18588)	\$100 LFF	2020 Year-end	Treasurer moved and candidate was not familiar with process of filing report. Committee registered in May 2020, candidate never filed to be on the ballot, and report due 2/1/2021 was filed 2/5/2021. Staff recommendation is based on fact that committee did not receive any contributions or make any expenditures, so candidate was not required to register committee. RECOMMENDED ACTION: Waive	Member Rashid	To approve the staff recommendation.	A roll call vote was taken. All members voted in the affirmative.
LaCroix (PJ) for MN Senate (18076)	\$25 LFF	2020 Year-end	Candidate was ill with COVID-19 and filed year-end/termination report one day late. Committee has had a cash balance of \$0 since 2017. RECOMMENDED ACTION: Waive	Member Rashid	To approve the staff recommendation.	A roll call vote was taken. All members voted in the affirmative.
Right Now Minnesota (41185)	\$1,000 LFF	2020 Pre-primary 24-hour notice	Accountant stated she attempted to file 24-hour notice in timely manner via CFR software. Board staff is aware of download issue with CFR software that could in some cases cause software to fail to prompt users to file 24-hour notice when entering large contribution. Also, it is possible to manually check box in software to indicate that 24-hour notice had been filed, which may have caused those users to believe 24-hour notice would be filed as a result. Committee reported cash balance of \$6,700 as of 12/31/2020. RECOMMENDED ACTION: Waive	Member Rashid	To approve the staff recommendation.	A roll call vote was taken. All members voted in the affirmative.
Willetts (Douglas) for MN Senate (18542)	\$1,000 LFF	2020 Pre-general 24-hour notice	Treasurer states that she attempted to timely file 24-hour notice via CFR software. The same technical issues referenced in Right Now Minnesota waiver request may also have applied to this committee. 24-hour notice was due 10/29/2020 and was received 1/30/2021 when treasurer was preparing year-end report. Other reports from committee and candidate's former house committee have been filed on time. Committee reported cash balance of \$345 as of 12/31/2020. RECOMMENDED ACTION: Waive	Member Rashid	To approve the staff recommendation.	A roll call vote was taken. All members voted in the affirmative.

Campaign Committee of Elliott W Engen (18530)	\$25 LFF	2020 Year-end	Treasurer's computer crashed day before report was due and committee lacked backup of CFR data. Paper report was filed couple of hours after deadline, listing ending cash balance of \$2,232. RECOMMENDED ACTION: Waive	Member Rashid	To approve the staff recommendation.	A roll call vote was taken. All members voted in the affirmative.
Chad Kurdi (Board of Electricity)	\$20 LFF	2020 Annual EIS	Statement due 1/25/2021 was filed 2/12/2021. Official initially thought he did not need to file EIS because he was no longer a public official. He received reminders but forgot due to distractions caused by COVID-19 pandemic. RECOMMENDED ACTION: Waive	Member Rashid	To approve the staff recommendation.	A roll call vote was taken. All members voted in the affirmative.
Thompson (David A) for Governor Committee (17644)	\$425 LFFs	2019 Year-end 2020 Year-end	Report due 1/31/2020 was filed 2/4/2020 resulting in \$50 LFF. Report due 2/1/2021 was filed 2/23/2021 resulting in \$375 LFF. Committee did not have any financial activity in 2018 or 2019 and only financial activity in 2020 was dispersing remaining cash balance of less than \$200. Candidate would have terminated committee previously but didn't realize he could do so while committee had outstanding debt. RECOMMENDED ACTION: Waive	Member Rashid	To approve the staff recommendation.	A roll call vote was taken. All members voted in the affirmative.
Todd Gramenz (4515)	\$1,075 LFFs \$1,000 CP	1st 2019 Lobbyist 1st 2020 Lobbyist 2nd 2020 Lobbyist	Board progressed this request from February meeting. Report due 6/17/2019 was filed two days late resulting in \$50 LFF. Report due 6/15/2020 was filed 1/6/2021 resulting in LFF and CP of \$1,000 each. Report due 1/15/2021 was filed 1/19/2021 resulting in \$25 LFF. Lobbyist has never been paid to lobby or spent money on lobbying, but does not wish to terminate registration. Lobbyist faced multiple challenges in 2020 related to COVID-19, his work following death of George Floyd, and family medical issues. RECOMMENDED ACTION: Waive	Member Flynn	To approve the staff recommendation with an admonition that any future violations will be seriously reviewed.	A roll call vote was taken. All members voted in the affirmative.

D. Informational items

1. Security information request

During the annual economic interest statement recertification, the executive director received one request to reclassify information as security information. The request was from a judge who had personal safety concerns about disclosing the description of real property that the judge owned. The executive director determined that the request met the statutory requirements and granted the request.

2. Payment of civil penalty for exceeding individual contribution limit

Joint Council 32 DRIVE, \$125

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

DFL House Caucus, \$100

4. Payment of late filing fee for 2020 year-end report of receipts and expenditures

4th Congressional District IPMN, \$200

5. Payment of late filing fee for 2020 pre-general report of receipts and expenditures

SEIU Local 26 Political Fund, \$1,000
60th Senate District RPM, \$250
28th Senate District DFL, \$150

6. Payment of late filing fee for 2020 pre-primary 24-hour notice

Freedom Club State PAC, \$1,000

7. Payment of late filing fee for June 2020 report of receipts and expenditures

SEIU Local 26 Political Fund, \$25

8. Payment of late filing fee for 2020 1st quarter report of receipts and expenditures

Minnesotans for Justice Paul Thissen, \$25
Citizens for Justice Lillehaug, \$25

9. Payment of late filing fee for 2019 year-end report of receipts and expenditures

Austin (Berger) for MN House, \$325

10. Payment of late filing fee for lobbyist disbursement report due 1/15/2021

Tom Hackbarth, \$275
Gary (Arthur) Lamppa, \$275
Sara Wolff, \$100
Mark Haveman, \$50

11. Payment of late filing fee for original/2017 annual EIS

Kevin Leininger, \$100 (payment received in early 2020 but was initially deposited to wrong account)

12. Payment of civil penalty for original/2017 annual EIS

Kevin Leininger, \$300 (payment received in early 2020 but was initially deposited to wrong account)

13. Return of public subsidy due to subsidy exceeding expenditures

Pafko (Frank) for House, \$25.90

14. Return of public subsidy due to overpayment

Krist (Brent) for SD15, \$151

15. Voluntary partial return of public subsidy

Fike (Joshua) for Minnesota, \$138.02

EXECUTIVE DIRECTOR REPORT

Mr. Sigurdson presented members with a memorandum regarding this matter that is attached to and made a part of these minutes. Mr. Sigurdson told members that the 2020 lobbyist principal reports were due on March 15th and that about half of the reports had already been filed. Mr. Sigurdson said that the House State Government Finance and Elections Committee had held confirmation hearings for Members Flynn, Leppik, Swanson, and Rashid. Mr. Sigurdson said that the Senate had not yet scheduled confirmation hearings but could be waiting to do so until a new member was appointed to fill the position currently held by Member Haugen. In response to questions from members, Mr. Sigurdson said that he had been told that an appointment soon would be made.

Mr. Sigurdson also told members that the housekeeping bill had been introduced in the House by Rep. Vang Her and would be heard in committee before the first deadline on March 12th. The lobbying bill had been jacketed and sent to potential authors in the House and the Senate. Mr. Sigurdson said that he had met with legislators and the Minnesota Governmental Relations Council to discuss the lobbying bill and that the biggest concern was the 25% of time and effort threshold for reporting. Mr. Sigurdson stated that to move the proposal forward, this threshold had been removed. Instead, lobbyists would be required to report all administrative agencies and metropolitan governmental units lobbied along with all Public Utilities Commission projects. For legislative action, lobbyists would be required to report all general lobbying categories on which they had lobbied along with up to four specific subjects of interest for each general category.

Mr. Sigurdson then reviewed House File 396, which would require political committees and funds that currently must register with and report to Hennepin County to register with and report to the Board instead. Mr. Sigurdson said that he did not believe that this bill would have a significant impact on Board operations because existing staff would be able to absorb these duties. Mr. Sigurdson next reviewed House File 9, which would replace the public subsidy program with a Democracy Dollar coupon program and a matching contribution program. Mr. Sigurdson believed that this legislation would require an additional nine staff members to administer the Democracy Dollar program.

LEGAL COUNSEL'S REPORT

Mr. Hartshorn presented members with a legal report that is attached to and made a part of these minutes. Mr. Hartshorn told members that the pleadings in the Gunderson and Swing Right PAC

matters had been served. Mr. Hartshorn said that the NARAL Pro-Choice Minnesota matter now had been resolved and that the Brown matter was back in the hands of Board staff.

OTHER BUSINESS

There was no other business to report.

EXECUTIVE SESSION

The chair recessed the regular session of the meeting and called to order the executive session. Upon recess of the executive session, the chair reported the following matter into regular session:

Findings, conclusions, and order in the matter of Brad Kovach Committee to Elect for House

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

Respectfully submitted,



Jeff Sigurdson
Executive Director

Attachments:

Executive director report

Legal report

Findings, conclusions, and order in the matter of Brad Kovach Committee to Elect for House



MINNESOTA CAMPAIGN FINANCE BOARD

Date: February 24, 2021

To: Board Members

From: Jeff Sigurdson, Executive Director

Telephone: 651-539-1189

Re: Executive Director's Report

Lobbyist Principal Report

Notification to file the 2020 lobbyist principal report by March 15, 2021, has been mailed and e-mailed to 1,438 associations. The Board provides an online application for filing the report.

Board Member Confirmation Hearings

The House State Government Finance and Elections Committee will hold a confirmation hearing on February 25, 2021 for Carol Flynn, Margaret Leppik, Stephen Swanson, and Faris Rashid. The hearing will be held via Zoom. Information on the Board appointments has also been provided to the Senate State Government Finance and Policy and Elections Committee, but as of the date of this memo a hearing has not been scheduled. Confirmation of Board members must occur in both the House and Senate by the 45th legislative day of the session. For reference, February 22 was the 17th legislative day.

Legislative Update

Board Legislative Recommendations

Technical Changes – Housekeeping Bill The jacketed copy of this bill has been sent to Representative Vang Her (DFL) and Senator Kiffmeyer (RPM). I have asked members of both parties to consider being co-authors of the legislation. I believe that the bills will be introduced shortly.

Lobbying Proposal Dialogue with the Minnesota Governmental Relations Council (MGRC) leadership on the provisions of the proposal continues. I've also had conversations with individual lobbyists and legislators who are considering signing on as authors for the legislation. To move the proposal forward I agreed to modify the reporting requirements by dropping the 25% of time and effort threshold for reporting. As a replacement, the lobbyist reports all specific subjects of interest that were lobbied on for administrative, Public Utilities Commission, and metropolitan governmental unit lobbying. For legislative lobbying the lobbyist reports every general lobbying category that the lobbyist attempted to influence legislation on along with up to four specific subjects of interest for each general lobbying category identified by the lobbyist.

A jacketed version of the lobbying proposal is being prepared by the Revisor's office, I hope to have more information on legislative authors by the Board meeting.

Economic Interest Statement and Campaign Finance Proposals The proposed language has been sent to the Revisor to put into bill form. Initial discussion with legislators leads me to believe that these recommendations are coming forward too late for serious consideration this year, but that there is interest in the recommendations.

Other Chapter 10A Legislation

There are bills that modify Chapter 10A that are have been or are scheduled to be heard in committee.

HF 9 Democracy Dollar coupon program and state match of small contributions. Lead author is Rep. Greenman, there are 34 DFL co-authors. Senate companion is SF 422. SF 422 has not been heard in committee.

Status – The bill has been adopted on a straight party line vote in the State Government Finance and Elections, Judiciary Finance and Civil Law, and Public Safety and Criminal Justice Reform committees.

Major provisions - The legislation would repeal the political contribution refund program and end the payment of public subsidy payments to candidates. As a replacement, the legislation provides two funding mechanisms for candidates who sign the spending limit agreement. The first is the Democracy Dollar coupon program. In that program the Secretary of State mails two \$25 coupons to every registered voter in the state each year. The coupons can be given as a donation to a qualified candidate and to political parties. The coupons are redeemed with the Board, the Board in turn issues payments to the candidates and party units based on the coupons. Coupons may be redeemed through a paper transaction or electronically through an application that the Board would need to develop. The funding for the coupon is capped by year, so it is possible that the funding for the program could run out before all coupons are redeemed. There is an escalator clause that increases the funding for the program over time. The bill would provide approximately \$15.4 million for the coupon program in 2022, and increase to \$30.7 million by 2030.

The bill would also provide a state match for contributions from individuals of \$100 or less. The match would be six times the amount of the contribution if the contributor resides in the candidate's district, and three times the amount of the contribution if the individual lives outside of the candidate's district. The funding for the state match is the political party check-off on the state income and property tax forms.

The bill also modifies the disclaimer on independent expenditures to include the three largest contributors to the committee or fund that paid for the independent expenditure and expands the definition of "expressly advocating" to include communications that taken as a whole have no reasonable interpretation other than an appeal to elect or defeat a candidate. The express advocacy definition is used to determine if a communication is an independent expenditure for or against a candidate.

HF 396 Hennepin County political committees and funds register with the Board. Lead author is Rep. Freiberg, co-author is Rep. Bahner. Senate companion is SF 1261. SF 1261 has not been heard in committee.

Status – Adopted by the House State Government Finance and Elections committee by a unanimous vote. Second Reading was February 18, 2021.

Major provisions - Political committees and funds registered with Hennepin County Elections would be required to register with the Board. Those committees and funds that are already registered with the Board that make contributions to influence specified elections in Hennepin County, or that make independent expenditures to influence specified elections in Hennepin County, would need to file additional campaign finance disclosure reports with the Board during odd-numbered years. The expected number of committees or funds that would need to register with the Board is 25. The larger impact would be that committees and funds that make contributions or independent expenditures to influence local elections for county office in Hennepin County, municipal office in a city of over 75,000 people in Hennepin County, or for school board in School District 1 (Minneapolis), or to influence county or city ballot questions in Hennepin County or cities with over 75,000 residents, would need to report the disbursements to the Board. There would be five additional reports required during an odd-numbered year for committees and funds that make these types of expenditures.

**CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD
March 2021**

ACTIVE FILES

Candidate/Treasurer/ Lobbyist	Committee/Agency	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Served by Mail	Default Hearing Date	Date Judgment Entered	Case Status
Sandra (Sandi) Blaeser		2018 Public Official Statement of Economic Interest	\$100 LFF and \$1,000 CP	9/11/20				
		2019 Public Official Statement of Economic Interest	\$100 LFF and \$1,000 CP					
Chilah Brown Michele Berger	Brown (Chilah) for Senate	Unfiled 2016 Year- End Report of Receipts and Expenditures	\$1,000 LFF \$1,000 CP	3/6/18	8/10/18 1/8/21			Placed on hold for Board settlement discussions
		Unpaid late filing fee on 10/31/16 Pre- General Election Report	\$50 LFF					
Alyssa Eichman	Swing Right PAC	Unfiled 2018 Year- End Report of Receipts and Expenditures	\$1,000 LFF \$1,000 CP	10/5/20	2/23/21			
		Late Filing of 2018 Pre-General Report due 10/29/18; filed on 10/30/18	\$50 LFF					
Kelly Gunderson		Candidate Statement of Economic Interest due 6/16/20	\$100 LFF \$1,000CP	9/23/20				

Candidate/Treasurer/ Lobbyist	Committee/Agency	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Served by Mail	Default Hearing Date	Date Judgment Entered	Case Status
Marcus Harcus	MN Campaign for Full Legalization	Original Statement of Economic Interest, due 6/16/20	\$100 LFF \$1,000 CP	10/5/20				
		Lobbyist Disbursement Report due 6/15/20	\$1,000 LFF \$1,000 CP					
		Lobbyist Disbursement Report due 1/15/20	\$1,000 LFF \$1,000 CP					
		Late Filing of Lobbyist Disbursement Report due 1/15/19; filed on 6/16/19	\$1,000 LFF					
		Late Filing of Lobbyist Disbursement Report due 6/15/18, filed on 6/27/18	\$200 LFF					
		Annual Lobbyist Principal Report, due 3/16/20	\$1,000 LFF \$1,000 CP					
Beau Hullerman		Candidate Statement of Economic Interest due 6/16/20	\$100 LFF \$1,000CP	9/23/20				
Tim Johnson		Candidate Statement of Economic Interest due 6/16/20	\$100 LFF \$1,000CP	9/11/20				

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

FINDINGS, CONCLUSIONS, AND ORDER

IN THE MATTER OF THE BRAD KOVACH COMMITTEE TO ELECT FOR HOUSE

Background

The Brad Kovach Committee to Elect for House is the principal campaign committee of Brad Kovach, a candidate for Minnesota House District 30B. The committee's 2019 year-end and 2020 pre-primary reports of receipts and expenditures disclosed monetary contributions received totaling \$2,000 from Kathleen Krog and \$1,600 from Richard Kovach. Those totals exceeded the individual contribution limit during the 2019-2020 election cycle, which for a candidate for state representative was \$1,000 under Minnesota Statutes section 10A.27, subdivision 1.

In August 2020 the Board's executive director opened a staff review regarding contributions accepted by the Kovach committee in excess of the individual contribution limit. Board staff notified the committee of the need to return the excess amounts. Board staff explained that because the \$600 excess from Richard Kovach consisted of a contribution received in July 2020, the committee could return that contribution within 90 days of deposit and thereby avoid a violation with respect to that contributor. In an email received on September 21, 2020, Brad Kovach stated "I will return the \$600 to Richard Kovach and let you know with documentation in hand when I do. Similarly I will do the same for Kathleen Krog and provide a copy of the check. Both use out of state banks and it will take me about two weeks at the most to complete these."

Because the excess amount given by Ms. Krog consisted of contributions deposited more than 90 days prior to Board staff becoming aware of the issue, those contributions were deemed to be accepted under Minnesota Statutes section 10A.15, subdivision 3. At its meeting on October 7, 2020, the Board approved a conciliation agreement with the Kovach committee to resolve the excess contributions from Ms. Krog, and Brad Kovach signed the agreement on October 15, 2020. The agreement did not address the excess amount given by Richard Kovach because the Kovach committee stated that it would return that amount within 90 days of deposit.

In December 2020 Board staff emailed Brad Kovach and the Kovach committee's treasurer reminding them that they had not yet provided documentation showing that the excess amounts were returned to each contributor. Board staff also called and spoke with Brad Kovach in January 2021. On February 2, 2021, Brad Kovach replied to an email from Board staff stating "I am executing both payments this week and will have the transaction paperwork to you by the end of the week." That email and the committee's 2020 year-end report filed on January 28, 2021, reflect that the committee did not return \$600 to Richard Kovach within 90 days of deposit. On February 22, 2021, Brad Kovach provided documentation showing that the

committee refunded \$1,000 to Ms. Krog on February 4, 2021, and refunded \$600 to Richard Kovach on February 17, 2021.

Analysis

Minnesota Statutes section 10A.27, subdivision 1, prohibits the principal campaign committee of a candidate for state representative from accepting contributions totaling more than \$1,000 from any individual during a two-year election cycle. A contribution that is not returned within 90 days of deposit is deemed to be accepted under Minnesota Statutes section 10A.15, subdivision 3. A candidate who permits the candidate's principal campaign committee to accept contributions in excess of the individual contribution limit is subject to a civil penalty of up to four times the amount of the violation under Minnesota Statutes section 10A.28, subdivision 2. When deciding whether to impose a civil penalty, and the amount of that penalty, the Board considers several factors.¹ When imposing a civil penalty under Minnesota Statutes section 10A.28 for a first-time violation of a contribution or expenditure limit, the Board typically imposes a civil penalty of one times the amount of the violation.

The Brad Kovach Committee to Elect for House registered with the Board in July 2019 and has no history of previous violations. The committee did not use the Board's Campaign Finance Reporter software to record contributions received in 2019, which prevented the software from displaying a warning message when contributions received in 2020 were entered that caused the committee to exceed the individual contribution limit. In August 2020 the committee was advised of the need to promptly return \$600 to Richard Kovach in order to avoid violating the individual contribution limit with respect to that contributor and the committee failed to do so. After being advised of the need to return excess contributions in early August of 2020, the committee received a public subsidy payment exceeding \$3,500 and received additional contributions totaling at least \$2,950 according to the committee's 2020 year-end report. The failure to promptly return excess contributions provided a small, but not insignificant, economic benefit to the committee during the campaign. The committee reported a cash balance of less than \$4 as of the end of 2020 and the committee may have limited ability to raise additional funds. Considering those factors, the Board will impose a civil penalty of one times the amount of the violation involving contributions from Richard Kovach.

¹ Minnesota Statutes section 14.045, subdivision 3, lists factors that agencies must consider when setting the amount of a fine including the gravity, willfulness, and number of violations; the offender's past violations and economic benefit; and any other factor that justice requires.

Based on the above background and analysis, the Board makes the following:

Findings of Fact

1. The Brad Kovach Committee to Elect for House accepted contributions from Richard Kovach during the 2019-2020 election cycle consisting of \$1,000 received in October 2019 and \$600 received in July 2020. In total, the contributions from Richard Kovach exceeded the contribution limit from an individual by \$600.
2. The committee did not use the Board's Campaign Finance Reporter software to record contributions received in 2019. Therefore, when the committee used the software to record contributions received in 2020, the software did not provide a warning message when contributions were entered that, when combined with contributions received in 2019 from the same contributor, exceeded the individual contribution limit.
3. Starting in August 2020 and continuing over the course of several months, the Board attempted via informal methods to correct the excess amount received by the committee from Richard Kovach.
4. Brad Kovach stated that the committee would return \$600 to Richard Kovach within 90 days of deposit but the committee failed to do so.
5. The committee refunded \$600 to Richard Kovach on February 17, 2021.
6. The committee has no history of past violations.
7. By failing to return the \$600 excess amount to Richard Kovach within 90 days of deposit, the committee willfully violated the individual contribution limit with respect to that contributor.
8. The economic benefit to the committee resulting from the violation was small but not insignificant.

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

Conclusions of Law

1. The Brad Kovach Committee to Elect for House violated Minnesota Statutes section 10A.27, subdivision 1, when it accepted contributions in excess of the individual contribution limit from Richard Kovach during the 2019-2020 election cycle.

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

Order

1. A civil penalty of \$600 is imposed against the Brad Kovach Committee to Elect for House for its violation of the individual contribution limit. Within 30 days of the date of this order the committee must pay the civil penalty or enter into a payment plan with the Executive Director. If the committee enters into a payment plan, the total repayment period may not exceed 12 months.
2. If the committee does not comply with the provisions of this order, the Board's executive director may request that the attorney general bring an action on behalf of the Board for the remedies available under Minnesota Statutes section 10A.34.
3. The Board investigation of this matter is concluded and hereby made a part of the public records of the Board pursuant to Minnesota Statutes section 10A.022, subdivision 5.

/s/ Stephen Swanson
Stephen Swanson, Chair
Campaign Finance and Public Disclosure Board

Date: March 3, 2021