

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

.....
July 28, 2021

Room G-31

Minnesota Judicial Center

.....
MINUTES

Because the legislature did not confirm the appointments of Members Swanson and Rashid within 45 legislative days, the Board did not have a chair or a vice chair at the beginning of the meeting. The meeting therefore was called to order by Executive Director Sigurdson.

Members present: Flynn (attended by telephone), Leppik, Rashid, Rosen (arrived during executive director's report), Soule, Swanson

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

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

MINUTES (April 9, 2021)

After discussion, the following motion was made:

Member Flynn's motion:	To approve the April 9, 2021, minutes as drafted.
------------------------	---

Vote on motion:	A roll call vote was taken. All members voted in the affirmative (Rosen absent).
-----------------	--

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 introduced staff member Erika Ross and told members that Ms. Ross was the person responsible for registrations in all programs and for lobbyist reporting. Mr. Sigurdson said that Ms. Ross had started work in December 2020 but that there had not been an opportunity until now to introduce her to members in person.

Mr. Sigurdson then reviewed the new security measures being implemented in the Centennial Office Building. Mr. Sigurdson told members that under the new procedures, visitors to the building would be required to sign in at the security desk. Visitors would need to identify themselves to get security badges or would have to be escorted at all times by a staff member. Mr. Sigurdson said that these security measures could make it difficult for members of the public to look at the Board's records and attend Board meetings, especially if someone wanted to remain anonymous.

Mr. Sigurdson next briefly reviewed the legislative changes to Chapter 10A. Mr. Sigurdson also discussed a change to Minnesota Statutes Chapter 3 that would expand the definition of lobbyist to include many more people including, potentially, administrative staff at lobbying firms. Mr. Sigurdson

said that this change would not take effect until January 2023 so that there was time to amend the language. Member Swanson asked staff to prepare a report for the next meeting on the history of the Board's lobbyist recommendations that included interactions with the Minnesota Governmental Relations Council and the events at the last committee hearing where the proposal was discussed.

A. Adoption of fiscal year 2022 budget

Mr. Sigurdson told members that the legislature had approved a 2% increase to the Board's budget for each fiscal year in the upcoming biennium. Mr. Sigurdson said that members needed to ratify the proposed budget for fiscal year 2022. Mr. Sigurdson said that the fixed costs of staff and office rent represented 91% of the fiscal year 2022 budget.

After discussion, the following motion was made:

Member Leppik's motion: To ratify the proposed budget for fiscal year 2022.

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

APPOINTMENT OF BOARD OFFICERS

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 due to the failure of the legislature to confirm Members Swanson and Rashid before the 45th legislative day after their appointments, the Board currently did not have a chair or a vice chair. Mr. Sigurdson said that the Board could reappoint Members Swanson and Rashid to their former positions or appoint other members to the positions. Mr. Sigurdson suggested that the appointments expire on January 1, 2022.

After discussion, the following motion was made:

Member Rosen's motion: To appoint Member Swanson as chair, and Member Rashid as vice chair, for the remainder of 2021.

Vote on motion: A roll call vote was taken. All members voted in the affirmative (Swanson and Rashid abstained).

CHAIR'S REPORT

A. 2021 meeting schedule

The next Board meeting is scheduled for 10:00 a.m. on Wednesday, September 1, 2021.

ENFORCEMENT REPORT

A. Discussion items

1. Administrative termination of lobbyist Jenna Grove (3259)

Mr. Olson told members that the Clean Water Action Alliance of MN had asked that the lobbyist registration of Ms. Grove be terminated effective July 24, 2020, as she was no longer employed by that principal. Mr. Olson said that a voicemail had been left for Ms. Grove using the phone number on file asking her to file a termination statement, but that she had not done so. Mr. Olson stated that a reporting lobbyist for the same principal had filed disbursement reports inclusive of Ms. Grove through the end of 2020, so there would not be any outstanding reports if the termination was retroactive to 2020.

2. Administrative termination of the Norman County RPM (20231)

Mr. Olson told members that the Norman County RPM had failed to file its 2020 pre-general and year-end reports. Mr. Olson said that when a treasurer fails to respond to the Board's letters and emails, a certified letter is sent to the chair of record for the party unit. In this case, the chair for Norman County was listed as Marijo Vik. Mr. Olson said that Ms. Vik contacted Board staff and provided that she ceased to be an officer of the Norman County RPM about 5 years ago. Ms. Vik also provided that John Dullea, who was listed as the treasurer for the Norman County RPM, had died on August 26, 2020. Mr. Olson said that to Ms. Vik's knowledge there were no other officers of the Norman County RPM, and that with Mr. Dullea's death, the party unit might no longer exist. Mr. Olson said that the last report submitted by Mr. Dullea showed an ending cash balance for the party unit of \$963.09.

Mr. Olson said that Board staff also was contacted by Elizabeth Koller, the daughter of Mr. Dullea. Ms. Koller explained that she had closed all bank accounts in her father's name, including the account for the Norman County RPM. Mr. Olson stated that Board staff contacted Ron Huettl, Jr., the Director of Compliance, Operations, for the Republican Party of Minnesota. Mr. Huettl determined that the Norman County RPM was not currently active, and therefore, the remaining funds from Norman County RPM should be forwarded to the Republican Party of Minnesota and the Norman County RPM should be administratively terminated as a political party unit. Mr. Olson said that the Republican Party of Minnesota had confirmed that it had received a check from Ms. Koller and would record a contribution from the Norman County RPM on its 2021 year-end report of receipts and expenditures.

Mr. Olson said that Board staff was asking the Board to administratively terminate the Norman County RPM as of August 26, 2020, which was the date of Mr. Dullea's death. Mr. Olson stated that by using the August date for the date of the termination there would be no further reports of receipts and expenditures owed by the Norman County RPM.

After discussion, the following motion was made:

Member Leppik's motion: To approve the administrative terminations of lobbyist Jenna Grove and the Norman County RPM as requested by staff.

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

3. Request to refer matter to the Attorney General's Office – Jae Hyun Shim (Board of Behavioral Health and Therapy)

Mr. Olson told members that Jae Hyun Shim was a public official appointed to the Board of Behavioral Health and Therapy in 2016 and reappointed in May 2020. Mr. Olson said that Jae Hyun Shim's 2020 annual statement of economic interest due on January 25, 2021, had not been filed and that the maximum late filing fee of \$100 and the maximum civil penalty of \$1,000 had accrued. Mr. Olson stated that multiple notices had been sent to Jae Hyun Shim regarding the need to file the EIS. Mr. Olson said that staff was asking the Board to refer the matter to the Attorney General's Office to seek an order compelling filing of the EIS and payment of the balance owed.

After discussion, the following motion was made:

Member Rashid's motion: To refer the Jae Hyun Shim matter to the Attorney General's Office for further action.

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

B. 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
1. 6th Senate District DFL (20899)	\$2,000 LFFs \$2,000 CPs	2020 Pre-general 2020 Year-end	Treasurer was hospitalized in mid-September and was recovering from surgery and multiple injuries when reports came due. RECOMMENDED ACTION: Waive	Member Leppik	To approve the staff recommendation for requests 1 through 9.	A roll call vote was taken. All members voted in the affirmative.

<p>2. March of Dimes (5432)</p>	<p>\$325 LFF</p>	<p>2020 Lobbyist principal</p>	<p>Report due 3/15/2021 was filed 4/1/2021. Principal did not know that a lobbyist was registered on its behalf in 2020. Principal had two lobbyists until early 2018 and only one terminated registration following restructuring of organization. Principal's contact person stopped working for principal in August 2020 and principal learned of need to file report after report came due, shortly after new lobbyist registered on its behalf. RECOMMENDED ACTION: Waive</p>	<p>Member Leppik</p>	<p>To approve the staff recommendation for requests 1 through 9.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
<p>3. Minnesota School Counselors Association (3060)</p>	<p>\$25 LFF</p>	<p>2020 Lobbyist principal</p>	<p>Report due 3/15/2021 was filed one day late. Employee of principal's accounting vendor attempted to file report electronically several times before due date but was unable to access Board's reporting system using login credentials provided. She learned that she could submit report using PDF form instead and then did so. Board staff believes principal's accounting vendor was attempting to log into wrong page on Board's website. RECOMMENDED ACTION: Waive</p>	<p>Member Leppik</p>	<p>To approve the staff recommendation for requests 1 through 9.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
<p>4. Minnesota State Cattlemen's Association (536)</p>	<p>\$25 LFF</p>	<p>2020 Lobbyist principal</p>	<p>Report due 3/15/2021 was filed one day late. Principal underwent staffing changes and person responsible for filing report was on maternity leave when report came due. RECOMMENDED ACTION: Waive</p>	<p>Member Leppik</p>	<p>To approve the staff recommendation for requests 1 through 9.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
<p>5. Meridian Behavioral Health (6721)</p>	<p>\$300 LFF</p>	<p>2020 Lobbyist principal</p>	<p>Report due 3/15/2021 was filed 3/31/2021. Principal underwent staff reductions due to COVID-19 within office that handles corporate filings. As a result, principal's staff was not aware of need to file report until certified letter was received and then report was promptly filed. RECOMMENDED ACTION: Waive</p>	<p>Member Leppik</p>	<p>To approve the staff recommendation for requests 1 through 9.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
<p>6. Steamfitters-Pipefitters Local 455 (7515)</p>	<p>\$300 LFF</p>	<p>2020 Lobbyist principal</p>	<p>Report due 3/15/2021 was filed 3/31/2021. Principal's two lobbyists terminated registrations on behalf of principal effective 1/31/2020. Board staff sent letter to principal in 2/2020 notifying it of need to file principal's report covering 2020 by 3/15/2021 and suggesting that it do so early so that report would not be overlooked. Principal filed report covering 2019 on time but did not realize it also needed</p>	<p>Member Leppik</p>	<p>To approve the staff recommendation for requests 1 through 9.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>

			to file report covering 2020 as it did not believe it was represented by lobbyist in 2020. There were no lobbying disbursements made in 2020. RECOMMENDED ACTION: Waive			
7. Jessica Nolan Spinner (4565)	\$225 LFF	1st 2021 Lobbyist	Report due 6/15/2021 was filed 6/28/2021. Lobbyist was on maternity leave from 4/5/2021 to 6/28/2021. Lobbyist is reporting lobbyist for three other lobbyists and report disclosed no lobbying disbursements. RECOMMENDED ACTION: Waive	Member Leppik	To approve the staff recommendation for requests 1 through 9.	A roll call vote was taken. All members voted in the affirmative.
8. Peter Martin (2344)	\$400 LFF	1st 2021 Lobbyist	Report due 6/15/2021 was filed 7/8/2021. Lobbyist did not receive reminders regarding need to file report as contact information on file was incorrect. Lobbyist changed law firms and believed he had updated his contact information via Board's website several months ago. Lobbyist has filed each lobbyist report on time since 2010. RECOMMENDED ACTION: Waive	Member Leppik	To approve the staff recommendation for requests 1 through 9.	A roll call vote was taken. All members voted in the affirmative.
9. Melissa Lesch (1959)	\$50 LFF	1st 2021 Lobbyist	Report due 6/15/2021 was filed two days late. Lobbyist did not receive mailed reminder regarding need to file as address on file was incorrect. Lobbyist changed from being contract lobbyist to working directly for principal and there was confusion as to who was reporting lobbyist. Lobbyist is reporting lobbyist for two other lobbyists and report disclosed no lobbying disbursements. RECOMMENDED ACTION: Waive	Member Leppik	To approve the staff recommendation for requests 1 through 9.	A roll call vote was taken. All members voted in the affirmative.

13. Minnesota Seasonal Recreational Property Owners PAC (30591) – 24-hour notice - \$1,000 LFF

The Minnesota Seasonal Recreational Property Owners PAC incurred a \$1,000 late filing fee for a 24-hour notice due 8/5/2020 that was never filed. The contribution was first disclosed on the September report. The treasurer forgot about the 24-hour notice requirement and was accompanying a family member to a medical appointment the day the contribution was received. The contribution in question was a \$2,500 contribution from an individual. The Board typically reduces 24-hour notice late fees for first-time violations to \$250. The fund reported a cash balance of \$1,026 as of 12/31/2020. RECOMMENDED ACTION: Reduce to \$250.

Treasurer Judy Corrigan appeared in person at the meeting to address the Board. Ms. Corrigan confirmed that she had forgotten about the notice requirement because she was taking her brother to a medical appointment. Ms. Corrigan acknowledged the \$50 waiver that had been granted 11 years ago for a campaign finance report but stated that this was the first time in 20 years that she had forgotten to file a 24-hour notice. Ms. Corrigan asked the Board to waive the entire late filing fee.

After discussion, the following motion was made:

Member Flynn's motion: To reduce the late filing fee to \$250.

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

17. Carpenters Local 322 (30642) – 24-hour notice - \$1,000 LFF

The Carpenters Local 322 incurred a \$1,000 late filing fee for a 24-hour notice due 10/28/2020 that was never filed. The contribution was first disclosed on the year-end report. The treasurer was under the impression that the fund's supporting association was not going to make a contribution to the fund during the pre-general 24-hour notice period. The contribution in question was a \$1,373 contribution from the fund's supporting association. The fund has not incurred a late filing fee since 2012 and has timely filed multiple 24-hour notices in the past. The Board typically reduces 24-hour notice late fees for first-time violations to \$250. The fund reported a cash balance of \$12,895 as of 12/31/2020.
RECOMMENDED ACTION: Reduce to \$250.

Treasurer Jim Leuthner appeared in person at the meeting to address the Board. Mr. Leuthner stated that this was the first late filing fee for the Local since 2011. Mr. Leuthner said that the Local had good separation of financial duties and that the error occurred solely due to a timing issue with the monthly transfer from the supporting association. Mr. Leuthner asked the Board to waive the late filing fee.

After discussion, the following motion was made:

Member Rosen's motion: To reduce the late filing fee to \$250.

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

21. 67th Senate District DFL (20422) – 2020 year-end report - \$1,000 LFF, \$1,000 CP

The 67th Senate District DFL incurred a \$1,000 late filing fee and a \$1,000 civil penalty for a report due 2/1/2021 that was filed 4/2/2021. The party unit had leadership changes and the new treasurer did not understand how to use the CFR software. Also, the previous treasurer did not properly back up the party unit's CFR data. The party unit reported a cash balance of \$4,481 as of 12/31/2020.
RECOMMENDED ACTION: Waive CP and reduce LFF to \$500.

Chair Terri Thao appeared in person at the meeting to address the Board. Ms. Thao confirmed that the report was late because the treasurer was new and did not understand the CFR software. Ms. Thao said that the party unit had a very low cash balance and asked the Board to reduce the late filing fee to \$250.

After discussion, the following motion was made:

Member Rosen's motion: To waive the civil penalty and reduce the late filing fee to \$500.

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

Remaining waiver requests

<p>10. Committee to Elect Heidi Gunderson for House (17664)</p>	<p>\$2,050 LFFs</p>	<p>2017 Year-end 2019 Year-end 2020 Year-end</p>	<p>Candidate attempted to file year-end no-change statement for 2017 on due date, 1/31/2018, but mistakenly filed another copy of 2016 year-end no-change statement instead. 2017 year-end no-change statement was filed 2 days later resulting in \$50 LFF. Candidate attempted to file year-end no-change statement for 2019 on due date, 1/31/2020, but mistakenly filed another copy of 2018 year-end no-change statement instead. Candidate attempted to file year-end no-change statement for 2020 one day after due date, 2/1/2021, but again mistakenly filed another copy of 2018 year-end no-change statement instead. Board staff had difficulty contacting committee and candidate filed year-end no-change statements for 2019 and 2020 on 3/30/2021 after being contacted by phone, resulting in \$1,000 LFF for each of those two statements. LFF for 2020 year-end report would have been \$25 had correct statement been filed 2/1/2021. Committee has been dormant since 2015, has cash balance of \$1,233, and intends to terminate. RECOMMENDED ACTION: Waive LFF for 2017 report and reduce LFFs for 2019 and 2020 reports to \$125 each leaving a total of \$250 owed.</p>	<p>Member Flynn</p>	<p>To approve the staff recommendation for requests 10 through 23, excluding requests 13, 17, 20, and 21.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
<p>11. OutFront Minnesota Action (70033)</p>	<p>\$700 LFF</p>	<p>2020 Pre-general 24-hour notice</p>	<p>24-hour notice due 10/28/2020 was filed 11/18/2020. Due to staffing changes and pace of activity before general election committee did not discover contribution until weeks after receipt. Contribution in question was \$2,500 contribution from party unit. Board typically reduces 24-hour notice late fees for first-time violations to \$250. Committee reported cash balance of \$5,746 as of 12/31/2020. RECOMMENDED ACTION: Reduce to \$250</p>	<p>Member Flynn</p>	<p>To approve the staff recommendation for requests 10 through 23, excluding requests 13, 17, 20, and 21.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>

<p>12. Volunteer for Dori (Trossen) (18531)</p>	<p>\$1,000 LFF</p>	<p>2020 Pre- general 24-hour notice</p>	<p>24-hour notice due 11/1/2020 regarding \$1,000 contribution from party unit was never received and contribution was first disclosed on year-end report. Treasurer states that he attempted to and believed that 24-hour notice was timely filed via CFR software. Four other 24-hour notices were timely filed during pre-general 24-hour notice period by committee. However, Board's logs do not indicate attempt to file 24-hour notice via CFR software on date contribution in question was received or following day. Board typically reduces 24-hour notice late fees for first-time violations to \$250. Committee reported cash balance of \$4,720 as of 12/31/2020. RECOMMENDED ACTION: Reduce to \$250</p>	<p>Member Flynn</p>	<p>To approve the staff recommendation for requests 10 through 23, excluding requests 13, 17, 20, and 21.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
<p>14. Take Action PAC (70026)</p>	<p>\$1,000 LFF</p>	<p>2020 Pre- general 24-hour notice</p>	<p>24-hour notice due 10/31/2020 was not filed and contribution was first disclosed on year-end report. Treasurer states contribution was timely entered in CFR but they forgot to file 24-hour notice. Contribution in question was \$2,000 contribution from political committee. Committee has not incurred late filing fee since 2011 and timely filed 24-hour notice during pre-primary notice period. Board typically reduces 24-hour notice late fees for first-time violations to \$250. Committee reported cash balance of \$81,847 as of 12/31/2020. RECOMMENDED ACTION: Reduce to \$250</p>	<p>Member Flynn</p>	<p>To approve the staff recommendation for requests 10 through 23, excluding requests 13, 17, 20, and 21.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
<p>15. IBEW Minn State Council PAC (40404)</p>	<p>\$1,000 LFF</p>	<p>2020 Pre- general 24-hour notice</p>	<p>24-hour notice due 10/26/2020 was filed 1/21/2021 when 2020 year-end report was filed. Due to extra tasks and being in and out of office because of COVID-19, 24-hour notice requirement was overlooked. Contribution in question was \$30,000 contribution from IBEW Minn State Council. Board typically reduces 24-hour notice late fees for first-time violations to \$250. Committee does have prior violation of 24-hour notice requirement but that was in 2012. Committee reported cash balance of \$26,112 as of 12/31/2020. RECOMMENDED ACTION: Reduce to \$250</p>	<p>Member Flynn</p>	<p>To approve the staff recommendation for requests 10 through 23, excluding requests 13, 17, 20, and 21.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>

<p>16. North Central States Carpenters PAC (30561)</p>	<p>\$1,000 LFF</p>	<p>2020 Pre-primary 24-hour notice</p>	<p>24-hour notice due 7/29/2020 was filed 10/20/2020 and contribution was first disclosed on September report. Staff of fund's supporting association were mostly working remotely due to pandemic. Contribution in question was \$25,000 contribution from fund's supporting association. Board typically reduces 24-hour notice late fees for first-time violations to \$250. Fund previously failed to file 24-hour notice during 2018 pre-primary period but paid \$1,000 late filing fee in full. Fund reported cash balance of \$1,895 as of 12/31/2020. RECOMMENDED ACTION: Reduce to \$250</p>	<p>Member Flynn</p>	<p>To approve the staff recommendation for requests 10 through 23, excluding requests 13, 17, 20, and 21.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
<p>18. Minneapolis Regional Labor Federation (30011)</p>	<p>\$1,025 LFFs</p>	<p>2020 Pre-primary 24-hour notice, Sept. 2020</p>	<p>24-hour notice due 7/31/2020 was never filed and contribution was first disclosed on September report, resulting in \$1,000 LFF. Contribution in question was \$40,000 contribution from fund's supporting association. Treasurer states that fund did not make any expenditures related to primary election but fund did give \$6,600 to various local candidates in July 2020. Report due 9/22/2020 was filed one day late resulting in \$25 LFF. Board typically reduces 24-hour notice late fees for first-time violations to \$250. Fund reported cash balance of \$14,484 as of 12/31/2020. RECOMMENDED ACTION: Reduce LFF for 24-hour notice to \$250 leaving total balance of \$275</p>	<p>Member Flynn</p>	<p>To approve the staff recommendation for requests 10 through 23, excluding requests 13, 17, 20, and 21.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
<p>19. 60th Senate District RPM (20493)</p>	<p>\$825 LFF</p>	<p>2020 Year-end</p>	<p>Report was due 2/1/2021 and no-change statement was filed 3/19/2021. New treasurer was not given copy of party unit's 2020 CFR data and did not obtain copies of party unit's bank statements until after report was due. Treasurer also had difficulty reconciling party unit's cash balance and wanted to avoid filing inaccurate report. Party unit reported cash balance of \$2,279 as of 12/31/2020 and paid \$250 LFF for pre-general report in Feb. 2021. RECOMMENDED ACTION: Reduce to \$250</p>	<p>Member Flynn</p>	<p>To approve the staff recommendation for requests 10 through 23, excluding requests 13, 17, 20, and 21.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>

<p>20. Joe Patino Campaign (18394)</p>	<p>\$2,000 LFFs \$1,000 CP</p>	<p>2019 Year-end 2020 Year-end</p>	<p>Reports due 1/31/2020 and 2/1/2021 were each filed 4/2/2021, resulting in LFF of \$1,000 for each report and CP of \$1,000 for 2019 report. Candidate thought committee had been terminated and moved out of state in 2019. Committee had \$425 after 2018 election, gave \$400 of that amount to party unit in 2020, and has been terminated. Contributions received by committee consisted solely of \$685 spent by candidate and \$400 given by party unit in 2018. Candidate has requested payment plan if waiver request is not granted. He can pay up to \$300 per month starting in 11/2021 as he is on active duty military status and is currently undergoing training. RECOMMENDED ACTION: Waive LFF for 2020 report and CP for 2019 report, reduce LFF for 2019 report to \$100, and authorize plan to pay \$100 by 11/5/2021.</p>	<p>Member Rosen</p>	<p>To waive the LFF for the 2020 report and the CP for the 2019 report, to reduce the LFF for the 2019 report to \$250, and to authorize a plan to pay the \$250 by 11/5/2021.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
<p>22. Somali American Women Political Action Committee (41235)</p>	<p>\$1,625 LFFs</p>	<p>2020 Pre-primary, Sept. 2020, 2020 Year-end</p>	<p>Pre-primary no-change statement was filed 3 days late resulting in LFF of \$150. September no-change statement due 9/22/2020 was filed 10/20/2020 resulting in LFF of \$500. Year-end no-change statement due 2/1/2021 was filed 3/29/2021 resulting in LFF of \$975. Newly formed committee was dealing with disruptions caused by COVID-19 and much of its leadership was focused on food and housing emergency assistance for Somali community rather than committee's operation. Committee reported cash balance of \$9,900 as of 12/31/2020. Staff recommendation to waive LFFs for the pre-primary and September reports is based on fact that committee had no financial activity prior to 9/20/2020 and therefore was not required to register with Board until after end of period covered by September report. RECOMMENDED ACTION: Waive LFFs for pre-primary and September reports and reduce LFF for year-end report to \$250</p>	<p>Member Flynn</p>	<p>To approve the staff recommendation for requests 10 through 23, excluding requests 13, 17, 20, and 21.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>

<p>23. Kelly Gunderson (House Candidate)</p>	<p>\$100 LFF \$1,000 CP</p>	<p>Original EIS</p>	<p>Candidate filed affidavit of candidacy 6/2/2020, making EIS due 6/16/2020. In span of three weeks candidate hastily filed for office, went on vacation, failed to secure party endorsement, and ended her campaign. During ensuing weeks candidate was busy seeking employment, caring for her children, and dealing with property theft, and she forgot about need to file EIS. She states that she did not sign for certified letter that was sent by Board staff due to COVID-19. She apparently received notices sent via first-class mail but didn't open envelopes. Candidate was referred to AGO in 9/2020 and was served with summons and complaint on 2/25/2021. EIS was filed 4/12/2021. RECOMMENDED ACTION: Reduce CP to \$500 leaving total balance of \$600</p>	<p>Member Flynn</p>	<p>To approve the staff recommendation for requests 10 through 23, excluding requests 13, 17, 20, and 21.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
<p>24. Jaden Partlow (Senate Candidate)</p>	<p>\$100 LFF \$1,000 CP</p>	<p>Original EIS</p>	<p>Candidate filed affidavit of candidacy 6/1/2020, making EIS due 6/15/2020. Affidavit of candidacy did not include candidate's apartment number so mail sent by Board staff was returned as undeliverable. Candidate states that he was unaware of need to file EIS. However, Board staff emailed him regarding need to file EIS on 6/22/2020, 6/29/2020, 7/30/2020, and 8/21/2020, using email address candidate later listed on his EIS, and Board staff spoke with candidate by phone on 7/30/2020. Candidate was referred to AGO in 9/2020 and was served with summons and complaint on 6/18/2021. EIS was filed 7/8/2021. RECOMMENDED ACTION: No action</p>	<p>No motion</p>		
<p>25. James Knips (Nobles SWCD)</p>	<p>\$125 LFFs</p>	<p>2019 Annual EIS 2020 Annual EIS</p>	<p>Annual EIS due 1/27/2020 was filed 2/19/2020 resulting in \$30 LFF. Annual EIS due 1/25/2021 was filed 3/8/2021 resulting in \$95 LFF. Official stated that he travels during winter and in each case filed EIS after returning to Minnesota. Official was first elected in 1980 and has been required to file annual EIS covering each year from 2007 onward. RECOMMENDED ACTION: No action</p>	<p>No motion</p>		

C. Informational Items

1. Payment of civil penalty for affiliation with an individual who falsely certified a report

Duluth DFL, \$1,500

2. Partial payment of civil penalties for conversion to personal use and false certification

Tamara Jones, \$558 (3 x \$186)

3. Payment of civil penalty for exceeding party unit aggregate contribution limit

Vote Duckworth (Zach), \$250

4. Payment of civil penalty for exceeding individual contribution limit

Minnesotans for Justice Paul Thissen, \$125

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

Dennis Smith for State House, \$1,000

6. Payment of civil penalty for 2020 year-end report of receipts and expenditures

Dennis Smith for State House, \$1,000

7. Payment of late filing fee for 2020 pre-general 24-hour notice

Freedom Club State PAC, \$1,100
Kaehler (Ralph) For MN Senate, \$250
Wending for House, \$250
Jose (Jimenez) for MN, \$50
Chamberlain (Roger) for SD 38, \$50

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

Planned Parenthood Minnesota PAC, \$1,000
Faith in Minnesota Fund, \$1,000

9. Payment of late filing fee for 2020 pre-primary report of receipts and expenditures

Whitmore (Isaiah) for 59B, \$250
Duluth DFL, \$50

10. Payment of late filing fee for 2018 pre-general report of receipts and expenditures

Minneapolis DFL Committee, \$1,000
Unidos Votamos Political Fund, \$1,000

11. Payment of civil penalty for 2018 pre-general report of receipts and expenditures

Minneapolis DFL Committee, \$1,000

12. Payment of late filing fee for September 2018 report of receipts and expenditures

Unidos Votamos Political Fund, \$1,000

13. Payment of late filing fee for 2017 year-end report of receipts and expenditures

Duluth DFL, \$1,000

14. Payment of late filing fee for lobbyist disbursement report due 6/15/2021

Jeffrey Hayden, \$600 (6 x \$100)
Ian Marsh, \$150 (6 x \$25)
Brian McDaniel, \$50 (2 x \$25)
Hubert (Buck) Humphrey, \$25
Matthew Bergeron, \$25

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

Joel Carlson, \$75
Patrick Rosenstiel, \$25
James Erickson, \$25
Julie Ketchum, \$25
Christa Anders, \$25
Byron Laher, \$75

16. Payment of late filing fee for lobbyist principal report due 3/15/2021

Dominium Development & Acquisition LLC, \$300
SEIU Local 26, \$275
Remedy Analytics, Inc., \$275
American Petroleum Institute (API), \$225
Gopher Resource Corporation, \$175
Renewable Energy Partners, \$125
American Heart Association, \$125
Viking Gas Transmission Co., \$100
Restoration Hardware, \$50
MN Hockey Ventures Group, \$50
Allstate Insurance Co., \$50
Minnesotans for Lawsuit Reform Inc., \$25
Kim Pettman, \$25

17. Payment of late filing fee for lobbyist principal report due 3/16/2020

SEIU Local 26, \$1,000
Great River Rail Commission, \$25

18. Payment of civil penalty for lobbyist principal report due 3/16/2020

SEIU Local 26, \$1,000

19. Payment of late filing fee for lobbyist principal report due 3/15/2019

ChiroHealth, \$1,000
YWCA of Minneapolis, \$500

20. Payment of civil penalty for lobbyist principal report due 3/15/2019

ChiroHealth, \$1,000

21. Payment of late filing fee for 2020 Annual EIS

Weston Kooistra, \$90
Paul Enestvedt, \$90
Ben Weeks, \$65
Michael Everson, \$50
James Prom, \$35
Jordan Bergeman, \$25
Cynthia Rowley, \$20
Thomas Schabel, \$20
Daryl Schutte, \$10
Edward Arnesen, \$10
John Glynn, \$5

22. Payment of late filing fee for 2019 Annual EIS

Jordan Bergeman, \$20

23. Payment of late filing fee for 2017 Annual EIS

Daryl Schutte, \$10

24. Payment of late filing fee for 2016 Annual EIS

Jordan Bergeman, \$10

25. Forwarded anonymous contributions

Unidos Votamos Political Fund, \$3,433.55

26. Return of public subsidy due to subsidy exceeding expenditures

Hausman (Alice) Volunteer Committee, \$227.59

27. Return of public subsidy due to overpayment

Citizens for Jeff Backer Jr House, \$436.63
Rarick (Jason) for Senate, \$68.41

PRIMA FACIE DETERMINATION

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 complaints filed with the Board are subject to a prima facie determination which is usually made by the Board chair in consultation with staff. Mr. Sigurdson said that when the Board does not have a chair, a vice chair, or a quorum, the complaint is referred to the member with the longest tenure on the Board. In June of 2021 the senior Board member was Daniel Rosen. Mr. Sigurdson said that the complaint regarding Alexander Minn and the Bull Moose Party was dismissed by Member Rosen on June 16, 2021, because it concerned expenditures for candidates running for local office and the Board has no jurisdiction over those elections. Mr. Sigurdson stated that the prima facie determination was being provided as an informational item to members and that no further action of the Board was required.

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 pleadings had been served in most matters on the report, that some people had filed their reports and submitted waiver requests, and that the next step in the other matters would be to pursue default or summary judgements.

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 had the following to report into regular session:

Probable cause determination in the matter of the complaint of the Minnesota DFL regarding Action 4 Liberty and Action 4 Liberty PAC

Probable cause determination in the matter of the complaint of the Minnesota DFL regarding the North Star Liberty Alliance and Rep. Erik Mortensen

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

Respectfully submitted,



Jeff Sigurdson
Executive Director

Page - 17 -
Minutes
July 28, 2021

Attachments:

Executive director report

Memorandum regarding appointment of Board officers

Memorandum regarding prima facie determination

Legal report

Probable cause determination in the matter of the complaint of the Minnesota DFL regarding Action 4 Liberty and Action 4 Liberty PAC

Probable cause determination in the matter of the complaint of the Minnesota DFL regarding the North Star Liberty Alliance and Rep. Erik Mortensen



MINNESOTA CAMPAIGN FINANCE BOARD

Date: July 2, 2021

To: Board Members

From: Jeff Sigurdson, Executive Director

Telephone: 651-539-1189

Re: Executive Director's Report

Board Operations

Lobbying Program: The lobbyist disbursement report covering the period of January 1 through May 31, 2021, was due on June 15, 2021. Of the 2,154 lobbyist disbursement reports due, 2,109 (98%) were filed by the due date. As of the date of this memo five reports are still outstanding. Over 94% of the reports were filed electronically.

Centennial Office Building

The Centennial Office Building is scheduled to reopen to the public in July. The building will have a new security system that requires all members of the public to check-in at a security desk and then be issued a visitor badge that will allow elevator access only to the floor of the agency that the individual wishes to visit. A visitor badge will only be issued upon the approval of the agency, or the agency can send a staff member down to escort the individual to the office.

The security badge system may make it impractical to hold Board meetings in the Centennial Office Building. Staff will be examining other room options in the capitol complex.

Legislative Changes to Chapter 10A

Changes to Chapter 10A were adopted in HF1952/Chapter 31, which is the State Government conference committee report, and in the special session tax bill, HF 9.

The tax bill was amended on the floor of the House to add language to Minnesota Statutes, Chapter 3, that prohibits a legislator from working for a company that provides lobbying or government affairs services. Because this new provision is in Chapter 3 it only affects legislators and is outside the Board's jurisdiction. However, the floor amendment also expanded the definition of lobbyist in Chapter 10A to include an individual who is compensated over \$3,000 "from a business whose primary source of revenue is derived from facilitating government relations or government affairs services between two third parties;" This addition to the definition would appear to require support staff for lobbying firms and law offices that specialize in government

affairs to register as lobbyists even if the staff member does not communicate directly with public officials. This provision has an effective date of January 3, 2023, so there is time for the legislature to re-evaluate this provision.

HF1952/Chapter 31 included the following changes to Chapter 10A:

- All provisions in the Board's technical and non-controversial recommendations to the legislature.
- Candidates, committee chairs, and treasurers may provide the Board with personal contact information – address, phone, and email - that will not be public data, and which can only be used by the Board to administer Chapter 10A. Committees still must provide public contact information for the committee and its officers at the time of registration.
- A new noncampaign disbursement for candidates that allows up to \$3,000 of committee funds to be used during each 2-year election segment for security for the candidate's home and for identity theft and credit rating protection for the candidate. This provision is retroactive to January 1, 2020.
- Starting January 1, 2022, Hennepin County will no longer register political committees and funds, and existing committees and funds registered there will need to register with the Board if they wish to remain active. This provision does not apply to candidate committees for local office in Hennepin County. Approximately 25 political committees and funds are currently registered in Hennepin County. If a committee, fund, or party unit registered with the Board contributes to a candidate for one of the Hennepin County offices listed below, or makes an independent expenditure for or against a candidate for those offices, the committee must file additional reports with the Board. This provision applies to candidates in Hennepin County for county level office, or municipal office in a city with a population greater than 75,000, and to candidates for the Minneapolis School Board. The reporting requirement also applies to expenditures for or against county-wide ballot questions and ballot questions held in cities with a population greater than 75,000. The municipal elections in Hennepin County covered by this provision all occur in odd-numbered years, so this provision will create some additional work for the Board. There will be no non-election years going forward, instead there will be state election years and Hennepin county election years.

Ratification of Budget for Fiscal Year 2022

At the start of each state fiscal year the Board ratifies the budget developed by staff using salary projections and other estimated costs provided by the Small Agency Resource Team (SmART). Attached is the proposed budget for fiscal year 2022.

The base budget for fiscal year 2022 is \$1,145,000, which reflects a \$22,000 increase (2%) from the base in fiscal year 2021. The base budget in fiscal year 2023 will be \$1,167,000, which

is another \$22,000 increase. The increase in the Board's budget was recommended by the Governor for all small agencies in anticipation of negotiated increases to staff salary and the impact of inflation on operating costs.

The fixed costs of staff compensation and office rent account for \$1,033,000, or 91% of the total budget. The attached budget breaks down the anticipated expenditures for fiscal year 2022 by general category, and estimated costs are rounded up. The budget is a working document, and some changes to the allocation of funds almost certainly will occur during the course of the year. I will report any major changes or shortfalls to the Board. Any funds left over at the end of fiscal year 2022 will carry forward to fiscal year 2023.

A motion and vote to ratify the budget is required.

Attachment

Budget for fiscal year 2022



MINNESOTA

CAMPAIGN FINANCE BOARD

Date: June 30, 2021

To: Board Members

From: Jeff Sigurdson, Executive Director

Telephone: 651-539-1189

Subject: Selection of Board chair and vice chair

Due to failure of the legislature to confirm Members Swanson and Rashid before the 45th legislative day after their appointment, the Board currently does not have a chair or vice chair. Before acting on matters on the regular or executive agenda the Board should refill these positions. The Board has the option to either reappoint members Swanson and Rashid to their former positions, or appoint other members to the positions of chair and vice chair. I would suggest that the appointments expire on January 1, 2022.

A member will need to make a motion to appoint members to the positions of chair and vice chair. The motion should specify the duration of the appointment.



MINNESOTA

CAMPAIGN FINANCE BOARD

Date: July 6, 2021

To: Board members

From: Jeff Sigurdson, Executive Director

Telephone: 651-539-1189

Re: Prima facie determination finding no violation

Complaints filed with the Board are subject to a prima facie determination which is usually made by the Board chair in consultation with staff. When the Board does not have a chair, a vice chair, or a quorum, the complaint is referred to the member with the longest tenure on the Board. In June of 2021 the senior Board member was Daniel Rosen.

If a Board member determines that the complaint states a violation of Chapter 10A or the provisions of Chapter 211B under the Board's jurisdiction, the complaint moves forward to a probable cause determination by the full Board.

If the member determines that the complaint does not state a prima facie violation, the prima facie determination must dismiss the complaint without prejudice. When a complaint is dismissed, the complaint and the prima facie determination become public data. The following complaint was dismissed by Member Rosen and the prima facie determination is provided here as an informational item to the other Board members. No further action of the Board is required.

Complaint regarding Alexander Minn and the Bull Moose Party

On June 7, 2021, the Board received a complaint submitted by Quentin Wathum-Ocama regarding Alexander Minn and an entity known as the Bull Moose Party. The complaint alleges that the Bull Moose Party failed to register with the Board as required by Minnesota Statutes section 10A.14, subdivision 1. In support of the assertion that the Bull Moose Party was required to register with the Board, the complaint provided screen shots of a Facebook page titled the Bull Moose Party and Facebook advertisements run via that page that support Minneapolis city council candidate Michael Moore and oppose Minneapolis city council candidate Jason Chavez.

Member Rosen concluded that because the complaint concerned expenditures for and against candidates running for municipal office, the Board had no jurisdiction over the registration of the association making the expenditures. Mr. Rosen therefore determined that the complaint did not state a prima facie violation of the provisions of Chapter 10A.

Attachments:

Prima facie determination

Complaint

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

ACTIVE FILES

Candidate/Treasurer/ Lobbyist	Committee/Agency	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Personally Served	Default Hearing Date	Date Judgment Entered	Case Status
Sandra (Sandi) Blaeser		2018 Public Official Statement of Economic Interest 2019 Public Official Statement of Economic Interest	\$100 LFF and \$1,000 CP \$100 LFF and \$1,000 CP	9/11/20	6/3/21			Board removed hold and requested going forward 7/19/21
Chilah Brown Michele Berger	Brown (Chilah) for Senate	Unfiled 2016 Year- End Report of Receipts and Expenditures Unpaid late filing fee on 10/31/16 Pre- General Election Report	\$1,000 LFF \$1,000 CP \$50 LFF	3/6/18	8/10/18 1/8/21 2/18/21			Board removed hold and requested going forward 7/19/21
Alyssa Eichman	Swing Right PAC	Unfiled 2018 Year- End Report of Receipts and Expenditures Late Filing of 2018 Pre-General Report due 10/29/18; filed on 10/30/18	\$1,000 LFF \$1,000 CP \$50 LFF	10/5/20	2/23/21 3/6/21			
Kelly Gunderson		Candidate Statement of Economic Interest due 6/16/20	\$100 LFF \$1,000CP	9/23/20	2/25/21			Statement filed. Waiver is on July agenda

Candidate/Treasurer/ Lobbyist	Committee/Agency	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Personally Served	Default Hearing Date	Date Judgment Entered	Case Status
Marcus Harcus	MN Campaign for Full Legalization	Original Statement of Economic Interest, due 6/16/20	\$100 LFF \$1,000 CP	10/5/20	4/27/21			Reports filed. Waiver is on July agenda
		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	6/18/21			

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

**PROBABLE CAUSE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF THE MINNESOTA DFL REGARDING ACTION 4 LIBERTY AND ACTION 4 LIBERTY PAC

On March 29, 2021, the Campaign Finance and Public Disclosure Board received a complaint submitted by the Minnesota DFL regarding Action 4 Liberty and the Action 4 Liberty PAC. Action 4 Liberty is a nonprofit 501(c)(4) association not registered with the Board. Action 4 Liberty PAC is a political committee registered with the Board. On an amendment to its registration, the Action 4 Liberty PAC listed www.action4liberty.com as its website.

The complaint alleges that Action 4 Liberty has accepted contributions and made expenditures that must be reported under Chapter 10A. The complaint states that it is unclear how Action 4 Liberty is related to the Action 4 Liberty PAC. The complaint maintains that either Action 4 Liberty failed to report the identified transactions through the registered committee Action 4 Liberty PAC or, alternatively, that Action 4 Liberty failed to register itself as a political committee with the Board to report those transactions. The complaint also alleges that the www.action4liberty.com website, an Action 4 Liberty Facebook page, and printed literature lack the disclaimers required by Minnesota Statutes section 211B.04. The complaint states that this lack of disclaimers “makes it impossible to determine whether Action 4 Liberty has complied with the registration and reporting requirements under Chapter 10A.”

The complaint includes screenshots of the www.action4liberty.com website and an Action 4 Liberty Facebook page. The screenshots show that the chair of the Action 4 Liberty PAC, Jake Duesenberg, also serves as president of Action 4 Liberty. The complaint quotes language on the website stating “we recruit pro-liberty candidates for the legislature and equip them to win their elections.” A 2019 Minnesota legislative scorecard is posted on the website along with articles opposing certain 2021 state legislative proposals and the continuation of the governor’s emergency powers. One article refers to three state legislators, then states, “They either get on board . . . or we’ll make sure they don’t get re-elected in 2022.” Other articles discuss costs incurred to print and distribute literature in northern Minnesota in February 2021. The complaint includes a picture of one side of that literature, which says, “Rep. Julie Sandstede betrayed you by voting to protect Governor Walz’ emergency powers.”

The screenshots of the Facebook page show posts that also oppose certain 2021 state legislative proposals and the continuation of the governor’s emergency powers. There are no disclaimers on the website, the Facebook page, or the side of the literature shown in the complaint. The Action 4 Liberty PAC’s 2019 year-end report of receipts and expenditures contains an expenditure for internet access and web hosting but does not contain an expenditure for the development of the legislative scorecard. The committee’s 2020 year-end report does not disclose any expenditures for the development or hosting of the committee’s

website nor any in-kind contributions from Action 4 Liberty accounting for the value of those services.¹

On April 8, 2021, the Board chair determined that the complaint stated prima facie violations of the registration and reporting requirements in Chapter 10A and the disclaimer requirements in Chapter 211B. The complaint and the prima facie determination were provided to the respondents on April 8, 2021.

On April 26, 2021, the respondents' attorney, Jeffrey O'Brien, submitted a response. On May 21, 2021, Mr. O'Brien submitted answers to five questions that Board staff had posed about the April response. In their response, respondents state that Action 4 Liberty is not affiliated with the Action 4 Liberty PAC. Instead, "[t]he Action 4 Liberty PAC operates as a separate entity with a separate office, separate bank account, and separate governance structure from Action 4 Liberty." The response acknowledges that Mr. Duesenberg is the chair of the Action 4 Liberty PAC and the president of Action 4 Liberty but states that Mr. Duesenberg is not on the board of directors of Action 4 Liberty and has no voting rights on board decisions.

The response provides that the Action 4 Liberty PAC has no website and that the inclusion of the Action 4 Liberty website address on the amendment to the Action 4 Liberty PAC's registration was an "unintentional administrative error" that will be addressed by the committee. The response explains that the Action 4 Liberty PAC initially was developing a new website called MNscorecard.com for the legislative scorecard and incurred the expenses reported in 2019 for that project. The response states that when it was decided that the legislative scorecard project was too challenging and too expensive for the Action 4 Liberty PAC, the committee abandoned the effort and redirected the MNscorecard.com website to the Action 4 Liberty website at no cost to the committee. The response provides that Mr. Duesenberg's posts on the Action 4 Liberty website are made in his capacity as president of the association and that he does not use any Action 4 Liberty PAC resources to make the posts.

The response also provides that Action 4 Liberty is "formed as a 501(c)(4) tax exempt organization, which means that the major purpose of the association is something other than to influence the nomination or election of candidates in Minnesota." Action 4 Liberty states in the response that it "self-identifies as an issue-based advocacy association" and that any donations received are used to get the association's message out to the public. The response contains screenshots of the Action 4 Liberty website. The screenshots show that much of the website discusses legislative issues important to Action 4 Liberty, such as ending the governor's emergency powers and refunding state budget surpluses to taxpayers. The pages ask people to sign a petition to end the governor's emergency powers and to contact specific legislators to tell them not to support the continuation of those powers.

¹ Any expenditures made in 2021 would be disclosed on the 2021 year-end report, which is not due until January 31, 2022.

The response states that the use of the word “supported” on the scorecard is not a request to vote for or against a particular candidate but instead is intended to educate the public about which legislators support issues important to Action 4 Liberty. The response states that the complaint’s reference to recruiting and equipping candidates is taken out of context and that Action 4 Liberty has never worked with, funded, or campaigned on behalf of any candidates in an election. The response provides that Action 4 Liberty alone undertook the 2021 literature efforts in northern Minnesota and that those efforts were intended to educate “the public on the issue of the expansion of government power.” Action 4 Liberty provided a picture of the reverse side of the literature distributed in northern Minnesota, which asks readers to call Rep. Sandstede to urge her to vote against the continuation of the governor’s emergency powers.² The complaint does not identify any text on the literature piece, or posted on the Action 4 Liberty website or Facebook page, that includes the words “vote for,” “vote against,” “elect,” or “defeat,” or any similar language, with regard to a specific candidate in an election.

The Board considered this matter at its meeting on July 28, 2021. Charles Nauen and David Zoll, counsel for the complainant, appeared to address the Board. During his presentation to the Board, Mr. Zoll stated that the literature used by Action 4 Liberty in the door knocking campaigns referenced in the complaint were a call for action on an issue that would be before the legislature, and were not campaign material. However, Mr. Zoll maintained that language on the Action 4 Liberty website, stating “we recruit pro-liberty candidates for the legislature and equip them to win their elections,” is sufficient to justify a Board investigation to determine if Action 4 Liberty should be registered as a political committee.

Mr. O’Brien appeared before the Board to make a presentation on behalf of both respondents.

Analysis

When the Board chair makes a finding that a complaint raises a prima facie violation, the full Board then must determine whether probable cause exists to believe an alleged violation that warrants an investigation has occurred. Minn. Stat. § 10A.022, subd. 3 (d). A probable cause determination is not a complete examination of the evidence on both sides of the issue. Rather, it is a determination of whether, given the evidence available, there is sufficient justification to initiate a formal Board investigation of the allegations in the complaint. Minnesota Statutes section 10A.022, subdivision 3, paragraph (d), directs the Board to make the probable cause determination within 45 days of the prima facie determination. However, the Board did not have a quorum from April 23, 2021, through July 19, 2021.³ Notice of the Board meeting then had to be given under the open meeting requirements in Minnesota Statutes section 13D.04. Consequently, the Board could not act on the probable cause determination until the July 28, 2021, meeting.

² Exhibit 1 contains both sides of the Sandstede piece.

³ The Board did not have a quorum because the terms of three members ended on April 23, 2021, when the legislature did not confirm those members by the 45th legislative day after the effective date of their appointments. The Board had a quorum again on July 19, 2021, when members were appointed to fill the three vacant positions.

Registration

Generally, an association must register a political committee or a political fund within 14 days of receiving contributions, or making expenditures, that exceed \$750. Minn. Stat. § 10A.14, subd. 1.⁴ Minnesota Statutes section 10A.01, subdivision 27, provides that a political committee is “an association whose major purpose is to influence the nomination or election of one or more candidates or to promote or defeat a ballot question, other than a principal campaign committee or a political party unit.” Whether an association’s major purpose is to influence the nomination or election of candidates must be determined on a case-by-case basis and the association’s public statements about its purpose may be considered. Advisory Opinion 405 (June 2, 2009).⁵

Initially, the record here shows that Action 4 Liberty is separate from the Action 4 Liberty PAC. The entities maintain separate offices and have separate bank accounts. The two entities also have different governance structures. Jake Duesenberg holds positions with both entities, but he has no voting privileges on the board that governs Action 4 Liberty. Although the Action 4 Liberty PAC listed the Action 4 Liberty website on its amended registration form, that reference was a clerical error that will be rectified. These facts support the determination that Action 4 Liberty and the Action 4 Liberty PAC are separate entities.

The record also establishes that the Internal Revenue Service has designated Action 4 Liberty as a tax-exempt entity under section 501(c)(4) of the Internal Revenue Code, which is reserved for entities whose primary activity is something other than political activities. Action 4 Liberty describes itself as an issue-based advocacy association. The majority of the posts on Action 4 Liberty’s website and Facebook pages discuss legislative issues important to the association and urge people to contact the governor and legislators about those issues. These facts show that Action 4 Liberty’s major purpose is something other than influencing elections. Action 4 Liberty’s website states that “we recruit pro-liberty candidates for the legislature and equip them to win their elections.” However, that language alone is insufficient to establish probable cause to believe that that Action 4 Liberty’s major purpose is to influence the nomination or election of candidates. Consequently, there is not probable cause to believe that the association violated the registration requirements in Chapter 10A by failing to register as a political committee.

Board records show that the Action 4 Liberty PAC registered as a political committee on February 8, 2017. Because the Action 4 Liberty PAC is registered with the Board, there is not probable cause to believe that the committee violated the registration requirements in Minnesota Statutes section 10A.

⁴ An association also must register with the Board if it makes more than three contributions in excess of \$200 each in a calendar year to candidates, political committees and funds, or party units. Minn. Stat. § 10A.27, subd. 13 (b). In this case, the complaint does not allege, and the record does not establish, that Action 4 Liberty made any direct contributions, or contributions in the form of approved expenditures, that would require it to register under this section.

⁵ cfb.mn.gov/pdf/advisory_opinions/AO405.pdf

The Board next must determine whether there is probable cause to believe that Action 4 Liberty was required to register a political fund with the Board. Minnesota Statutes section 10A.01, subdivision 28, defines a political fund as follows:

an accumulation of dues or voluntary contributions by an association other than a political committee, principal campaign committee, or party unit, if the accumulation is collected or expended to influence the nomination or election of one or more candidates or to promote or defeat a ballot question.

When determining whether an association whose major purpose is something other than influencing elections must register a political fund, the phrase “to influence” must be narrowly construed “to be limited to communications that expressly advocate to influence the nomination or election of candidates.” Advisory Opinion 428 (August 7, 2012)⁶ (citing *Buckley v. Valeo*, 424 U.S. 1 (1976); *Minnesota Citizens Concerned for Life v. Kelley*, 698 N.W.2d 424 (Minn. 2005)). A communication expressly advocates the nomination or election of a candidate only when it uses the specific words that were recognized in *Buckley v. Valeo*, such as “vote for,” “vote against,” “elect,” or “defeat,” or similar words. See Minn. Stat. § 10A.01, subd. 16a (defining expressly advocating); *In the matter of the complaint of Richard V. Novack regarding Minnesota Majority (Novack)* (December 3, 2008)⁷ (recognizing that express advocacy is limited to communications that use the *Buckley* magic words or similar words); Advisory Opinion 428 (same).

Here, neither the Sandstede literature piece nor the communications posted by Action 4 Liberty on its website and Facebook page use words of express advocacy. As Action 4 Liberty argues, the language in the legislative scorecard discusses which legislators support the association’s policy positions and which legislators therefore are supported by Action 4 Liberty. No words of express advocacy are used in the legislative scorecard. See *Novack* (preparing and distributing legislative scorecard that did not include words of express advocacy did not require association whose major purpose was something other than influencing elections to register a political fund with Board). Absent any words of express advocacy in its communications, Action 4 Liberty was not required to register a political fund with the Board. Consequently, there is not probable cause to believe that Action 4 Liberty violated the registration requirements in Chapter 10A by failing to register a political fund.

The Board notes that some of the language used in the Action 4 Liberty communications could constitute words of express advocacy under the “functional equivalent” definition of that term recognized by the United States Supreme Court in *McConnell v. FEC*, 540 U.S. 93 (2003) and *FEC v. Wisconsin Right to Life (WRTL)*, 551 U.S. 449 (2007). The functional equivalent definition of express advocacy includes the *Buckley* magic words as well as words that are “susceptible of no reasonable interpretation other than as an appeal to vote for or against a

⁶ cfb.mn.gov/pdf/advisory_opinions/AO428.pdf

⁷ cfb.mn.gov/pdf/bdactions/1052_Findings.pdf

specific candidate.” *WRTL*, 551 U.S. at 469-470. The Board concluded in Advisory Opinion 428 that “an expanded interpretation of express advocacy should be promulgated through the rulemaking or legislative process” In the absence of legislation or administrative rulemaking expanding the definition of express advocacy, the Board declines to apply the functional equivalent definition of express advocacy in this matter.

Reporting

Minnesota Statutes section 10A.20, subdivision 3, requires political committees and funds to file periodic reports of receipts and expenditures with the Board that disclose all financial transactions during the period covered. In-kind contributions, and in-kind expenditures, worth less than \$20, however, do not need to be recorded or reported. Minn. Stat. § 10A.13, subd. 1.

Because Action 4 Liberty is not required to register as a political committee or a political fund, the association is not required to file periodic reports with the Board. Consequently, there is not probable cause to believe that Action 4 Liberty violated the reporting requirements in Chapter 10A.

As a registered political committee, the Action 4 Liberty PAC is required to file reports with the Board that disclose all required transactions. Initially it appeared that the Action 4 Liberty PAC had omitted website expenses from its 2020 year-end report. The record shows, however, that the website expenses reported by the Action 4 Liberty PAC in 2019 were for the legislative scorecard project and that the committee abandoned this effort before 2020. The MNscorecard.com website then was redirected to the Action 4 Liberty website at no cost to the Action 4 Liberty PAC. The record also shows that the Action 4 Liberty PAC does not own or control the www.action4liberty website. The Action 4 Liberty PAC therefore had no website expenses to report in 2020 and there is not probable cause to believe that the Action 4 Liberty PAC violated the reporting requirements in Chapter 10A.⁸

Disclaimers

Minnesota Statutes section 211B.04 generally requires anyone preparing or disseminating campaign material to include a disclaimer on the material in the form specified in the statute. The disclaimer requirement, however, does not apply to an association that is not required to register or report under Chapter 10A. Minn. Stat. § 211B.04, subd. 3 (b).

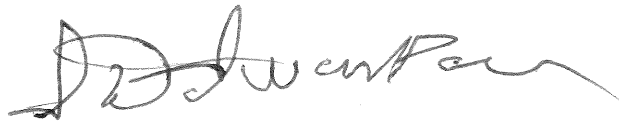
As determined above, Action 4 Liberty is an association that is not required to register or report under Chapter 10A. The Action 4 Liberty PAC states that it did not participate in the preparation or dissemination of any of the communications identified in the complaint and there is no evidence in the record contradicting that statement. Consequently, there is not probable cause

⁸ As discussed above, any expenses related to the distribution of literature in northern Minnesota in 2021 would be reportable on the 2021 year-end report, which is not due until January 31, 2022. The record, however, shows that the Action 4 Liberty PAC was not involved in the literature distribution effort and therefore will not have any related expenses to disclose on its 2021 year-end report.

to believe that the disclaimer requirements in Minnesota Statutes section 211B.04 were violated by either Action 4 Liberty or the Action 4 Liberty PAC.

Order:

1. The allegation that Action 4 Liberty or the Action 4 Liberty PAC violated the registration requirements in Minnesota Statutes section 10A.14, subdivision 1, is dismissed without prejudice because there is not probable cause to believe that this violation occurred.
2. The allegation that Action 4 Liberty or the Action 4 Liberty PAC violated the reporting requirements in Minnesota Statutes section 10A.20, subdivision 3, is dismissed without prejudice because there is not probable cause to believe that this violation occurred.
3. The allegation that Action 4 Liberty or the Action 4 Liberty PAC violated the disclaimer requirements in Minnesota Statutes section 211B.04, subdivision 1, is dismissed without prejudice because there is not probable cause to believe that this violation occurred.



Stephen Swanson, Chair
Campaign Finance and Public Disclosure Board

Date: July 29, 2021



REP. JULIE
SANDSTEDE

BETRAYED

YOU!

BY VOTING TO **PROTECT** GOVERNOR
TIM WALZ' EMERGENCY POWERS

➤ Voted with Metro Democrats to protect Walz' Emergency Powers indefinitely

➤ Allowing the Governor to shut down businesses in the future

MAKE JULIE SANDSTEDTE LISTEN. CALL HER AT 651.296.0172

rep.julie.sandstede@house.mn _____

DEMAND she keeps her promise & votes YES on the End Walz' Emergency Powers Resolution



SCAN ME



SIGN THE PETITION AT

ACTION4LIBERTY.COM

PREPARED AND PAID FOR
BY ACTION 4 LIBERTY

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

**PROBABLE CAUSE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF THE MINNESOTA DFL REGARDING THE NORTH STAR LIBERTY ALLIANCE AND REPRESENTATIVE ERIK MORTENSEN

Background

On March 29, 2021, the Campaign Finance and Public Disclosure Board received a complaint submitted by the Minnesota DFL regarding the North Star Liberty Alliance (NSLA) and Representative Erik Mortensen. The NSLA is a Minnesota nonprofit corporation that is exempt from federal income tax under Internal Revenue Code section 501(c)(4). Representative Mortensen represents District 55A in the Minnesota House of Representatives.

The complaint alleges that the NSLA is a political committee and violated Minnesota Statutes section 10A.14, subdivision 1, by failing to register with the Board. The complaint refers to and includes screenshots of portions of the NSLA's website. The NSLA describes itself on its website as "a Minnesota non-profit organization created for the purpose of advancing the cause of liberty in the state of Minnesota" that is "focused on educating Minnesotans on liberty issues including Constitutional Carry and other civil liberties issues, government taxing and spending, and property rights," and conducts "candidate surveys during election seasons to inform voters where candidates stand on key issues." The screenshots included with the complaint reflect that the NSLA published blog posts regarding a variety of legislative issues including penalties for violating executive orders, a bill that would require face coverings under certain circumstances, the proposed repeal of the governor's emergency powers, a proposed resolution impeaching Governor Walz, the state budget, business closures, and plans to stimulate the economy.

Many of the blog posts criticize particular public officials. Some of the posts refer to certain officials as "far-left," "radical leftists," "socialist," "RINO," "phony conservatives," or "fake conservatives," while addressing actions or inaction regarding a particular policy issue. A few of those posts appear to highlight the NSLA's efforts to influence the opinions of voters. One post recaps the NSLA's efforts over the course of 2020, including "28,000 pieces of mail to stop anti liberty legislation," over 21,000 phone calls, "tens of thousands of voters" contacted, approximately 3.2 million views via digital media, and 3,499 new activists recruited.¹ Another post similarly recaps the NSLA's efforts in 2020, stating that "[t]housands of calls, advertisements, and flyers were directed at legislators who neglect their duties" and "[i]n total, we were able to inform more than 400,000 voters about these negligent policy-makers."² The post implies that those efforts prompted some legislators to support ending the exercise of emergency powers by Governor Walz. The post also says that:

¹ www.northstarlibertyalliance.com/2020_rundown_12_23

² www.northstarlibertyalliance.com/stop_the_tyranny_12_28

your Alliance dug up the worst of the liberal's records and ensured the voters knew exactly how far-left some of these legislators had gone. When these far-left radicals could no longer hide behind the 'moderate' label voters marched them out of office. 5 of the most radical liberals were given the boot, and Minnesota also earned the conservative champion it needs. Fully-informed on his principled conservative pledges by your Alliance, voters ushered Rep-Elect Erik Mortensen into the MN House to lead the charge to stop Walz.

The complaint includes a copy of a fundraising letter signed by Representative Mortensen seeking donations to the NSLA. The letter decries actions taken by Governor Walz and other unnamed elected officials. The letter states:

We will not sit back and take it. What we will do is take back the power that is rightfully ours, put Radical Left politicians back in their place, and reassert our RIGHTS to live our own lives as we see fit.

The letter states that the NSLA seeks to end the exercise of emergency powers by Governor Walz, repeal the statutes undergirding those emergency powers, stop forced vaccinations, stop tax hikes, and expose "Republicans in Name Only" politicians. The letter explains that donations will be used to pay for communications "to alert citizens about key votes and direct them to contact their lawmakers," advertisements "that inspire Minnesotans to call the legislature in support of our liberty-preserving agenda," and other lobbying efforts.

The complaint also includes a copy of a flier titled "2021 Legislative Session Roadmap." The flier describes lobbying efforts and advertising strategies the NSLA plans to use to achieve the goals stated in the fundraising letter, including the impeachment of Governor Walz.

The complaint argues that the "NSLA is a hyper-partisan organization" focused "on attacking political opponents" that engages in "partisan attacks on Democrats and RINOs alike" in an attempt to influence elections. The complaint alleges that the "NSLA is hiding behind the artifice of issue advocacy in order to shield its overtly political conduct from disclosure and scrutiny."

In addition to asserting that the NSLA is a political committee, the complaint alleges that Representative Mortensen violated Minnesota Statutes section 10A.105, subdivision 1, which prohibits a candidate from forming or controlling a political committee aside from the candidate's own principal campaign committee. In support of that allegation the complaint refers to the NSLA's fundraising letter signed by Representative Mortensen, which states that Representative Mortensen is "partnering with North Star Liberty Alliance." The letter asks recipients to return the "2021 Legislative Roadmap Support Statement back to me" along with a donation to the NSLA. Based on the content of the letter the complaint asserts that "[i]t is apparent that Rep. Mortensen considers himself to be part of NSLA and this evidences the fact that, at a minimum, he exercises indirect control over the Committee."

On April 5, 2021, the Board chair determined that the complaint stated prima facie violations of Minnesota Statutes sections 10A.14 and 10A.105, subdivision 1. The complaint and the prima facie determination were provided to the respondents on April 7, 2021.

On May 7, 2021, counsel for the NSLA responded to the complaint. The response states that the NSLA is not a political committee and “does not attempt to engage in express advocacy regarding state candidates.” The response explains that “the NSLA does not work to elect or defeat candidates. The NSLA’s focus is to keep citizens informed on actions of current elected officials on matters of public concern related to the mission of the NSLA, including but not limited to the positions taken by Minnesota elected officials.” The response argues that the Board may only consider communications that use words or phrases of express advocacy when determining whether an association’s “major purpose is to influence the nomination or election of one or more candidates,” thereby satisfying the definition of a political committee under Minnesota Statutes section 10A.01, subdivision 27. The response argues that the communications referenced in the complaint do not contain express advocacy, as that term has been construed by the United States Supreme Court in *Buckley v. Valeo*,³ by the Minnesota Supreme Court in *Minnesota Citizens Concerned for Life, Inc. v. Kelley*,⁴ and by the Board in Advisory Opinion 428.⁵

With respect to the allegation that Representative Mortensen is exerting control over the NSLA, the response states that “Representative Mortensen is not a member of the NSLA Board of Directors, has no official position with the NSLA, is not a paid consultant, and has no vote of any kind regarding the operation, policy decisions, or objectives of the NSLA. The independent three-member NSLA Board has sole and exclusive control over the NSLA.” The response also states that although Representative Mortensen “agreed to draft a letter in support of the NSLA, Minnesota laws do not prevent legislators from helping to raise money to support nonprofit organizations.”

On May 21, 2021, Board staff sent a letter to the NSLA’s attorney asking the NSLA to address whether 13 specific Facebook advertisements contained express advocacy.⁶ The advertisements ran via the NSLA’s Facebook page,⁷ with five of the advertisements displayed during the week prior to the 2020 primary election and the other eight advertisements displayed within the month prior to the 2020 general election. The advertisements each included an image containing a picture of a state legislative candidate, displayed beside text stating the name of the candidate, the office sought by the candidate, and the claim that the candidate either “pledges to vote 100% pro-liberty,” “opposes any and all tax hikes,” or “pledges to never raise taxes.” For example, one advertisement included an image with a picture of Erik Mortensen displayed beside the following text:

³ *Buckley v. Valeo*, 424 U.S. 1 (1976).

⁴ *Minnesota Citizens Concerned for Life, Inc. v. Kelley*, 698 N.W.2d 424 (Minn. 2005).

⁵ Advisory Opinion 428 (Aug. 7, 2012).

⁶ Copies of these advertisements are provided in Exhibit 1 and the NSLA’s other Facebook advertisements may be viewed via Facebook’s [Ad Library](#).

⁷ The NSLA’s current Facebook page is facebook.com/NSLA2021.

ERIK MORTENSEN
CANDIDATE FOR STATE HOUSE DISTRICT 55A
OPPOSES ANY AND ALL TAX HIKES

The letter to the NSLA's attorney sought an explanation of what distinguishes text including the name of a candidate followed by the office sought by that candidate from a particular example of express advocacy stated in *Buckley*, which is the phrase "Smith for Congress."⁸

On June 4, 2021, counsel for the NSLA responded to the letter from Board staff. The response states that none of the advertisements "used the magic words laid out in *Buckley* that indicate express advocacy," without explaining the distinction between "Smith for Congress" and the language used within the 13 Facebook advertisements in question. The response states that the NSLA considers the advertisements to be "issue ads" and argues that the "deliberate decision to avoid magic words demonstrates the NSLA is committed to its mission of educating and informing the public."

On July 22, 2021, the Board received a written response to the complaint from Representative Mortensen. In his response Representative Mortensen states "I am not a member of NSLA's board. I have never attended any of their board meetings and I have not and do not provide any direction whatsoever as to what actions NSLA may or may not take. The use of the word 'we' in the letter that's been cited simply refers to the fight for liberty within Minnesota and all of the like-minded people like myself that are standing up for our individual rights."

At its meeting on July 28, 2021, the Board considered this matter and counsel for both the NSLA and the Minnesota DFL appeared before the Board.

Analysis

When the Board chair makes a finding that a complaint raises a prima facie violation, the full Board then must determine whether probable cause exists to believe an alleged violation that warrants an investigation has occurred. Minn. Stat. § 10A.022, subd. 3 (d). A probable cause determination is not a complete examination of the evidence on both sides of the issue. Rather, it is a determination of whether, given the evidence available, there is sufficient justification to initiate a formal Board investigation of the allegations in the complaint. Minnesota Statutes section 10A.022, subdivision 3, paragraph (d), directs the Board to make the probable cause determination within 45 days of the prima facie determination. However, the Board did not have a quorum from April 23, 2021, through July 19, 2021.⁹ Notice of the Board meeting then had to be given under the open meeting requirements in Minnesota Statutes section 13D.04.

⁸ See 424 U.S. at 44 n.52.

⁹ The Board did not have a quorum because the terms of three members ended on April 23, 2021, when the legislature did not confirm those members by the 45th legislative day after the effective date of their appointments. The Board had a quorum again on July 19, 2021, when members were appointed to fill the three vacant positions.

Consequently, the Board could not act on the probable cause determination until the July 28, 2021, meeting.

Registration

Generally, an association must register a political committee or a political fund within 14 days of receiving contributions, or making expenditures, that exceed \$750.¹⁰ The term political committee is defined as “an association whose major purpose is to influence the nomination or election of one or more candidates or to promote or defeat a ballot question, other than a principal campaign committee or a political party unit.”¹¹ Whether an association’s major purpose is to influence the nomination or election of candidates must be determined on a case-by-case basis and the association’s public statements about its purpose may be considered.¹² The term political fund is defined as “an accumulation of dues or voluntary contributions by an association other than a political committee, principal campaign committee, or party unit, if the accumulation is collected or expended to influence the nomination or election of one or more candidates or to promote or defeat a ballot question.”¹³ Money accumulated by an association constitutes a political fund only if that money is collected or expended to pay for express advocacy communications, ballot question expenditures, or contributions made to candidates or other entities for the purpose of influencing elections.¹⁴

Major Purpose Test

“An analysis of an association’s purpose may begin with statements that the association makes about itself.” The NSLA describes itself as an organization “focused on educating Minnesotans on liberty issues” that also conducts “candidate surveys during election seasons to inform voters where candidates stand on key issues.” That description is supported by the content on the NSLA’s website, the fundraising letter signed by Representative Mortensen, and the NSLA’s 2021 Legislative Session Roadmap. The complaint asserts that the NSLA is a political committee because it engages in “overtly political conduct” including “partisan attacks on Democrats and RINOs.” However, communications that may be characterized as partisan but that are intended to influence public policy either by providing information or by prompting constituents to engage with elected officials, are often not campaign expenditures under Chapter 10A.

The communications referenced in the complaint support the NSLA’s contention that it is not a political committee because its major purpose is not to influence elections. Those

¹⁰ Minn. Stat. § 10A.14, subd. 1.

¹¹ Minn. Stat. § 10A.01, subd. 27.

¹² [Advisory Opinion 405 \(June 2, 2009\)](#); [In the matter of the Complaint of Richard V. Novack regarding Minnesota Majority, \(Dec. 3, 2008\)](#).

¹³ Minn. Stat. § 10A.01, subd. 28.

¹⁴ *See generally* [In the matter of the Complaint of Richard V. Novack regarding Minnesota Majority, \(Dec. 3, 2008\)](#); [In the Matter of the Complaint by Ray Marshall regarding Catholics for Marriage Equality MN \(Dec. 10, 2012\)](#); [Advisory Opinion 428 \(Aug. 7, 2012\)](#).

communications focus on public policy issues that were the subject of bills or resolutions introduced in the legislature, including the proposed impeachment of Governor Walz. The communications did not contain express advocacy and prompted readers to contact legislators regarding specific issues. Also, the Internal Revenue Service has determined that the NSLA is tax-exempt under section 501(c)(4) of the Internal Revenue Code, which is reserved for entities whose primary activity is something other than political activities. While none of those factors are necessarily determinative, taken as a whole they refute the assertion that the NSLA's major purpose is to influence elections. Consequently, there is not probable cause to believe that the NSLA violated the registration requirements in Chapter 10A by failing to register a political committee.

Definition of Expressly Advocating

The complaint and its exhibits do not reference communications containing the words or phrases of express advocacy enumerated in *Buckley*, which are "'vote for,' 'elect,' 'support,' 'cast your ballot for,' 'Smith for Congress,' 'vote against,' 'defeat,' 'reject.'"¹⁵ The complaint and its exhibits also do not reference communications that appear to contain similar words.¹⁶ However, Facebook's Ad Library includes copies of advertisements that ran via the NSLA's Facebook page and some of those advertisements contain phrases nearly identical to the phrase "Smith for Congress," one of *Buckley's* eight magic words. In 1986 the Court noted that the express advocacy requirement was adopted "to distinguish discussion of issues and candidates from more pointed exhortations to vote for particular persons."¹⁷

The Facebook advertisements in question each contain the name of a legislative candidate followed by the text "candidate for," immediately followed by the candidate's legislative district. That language differs from the phrase "Smith for Congress" because the word candidate appears immediately before the text identifying the office sought. The inclusion of the word candidate combined with the formatting of the text indicates that the language stating which legislative district would be represented by each candidate is a statement of fact, and is not an appeal or exhortation to vote for a particular candidate. The advertisements in question presented the featured candidates in a favorable light, and may have been intended to influence the election of those candidates. However, the Board's authority to require registration and disclosure by political funds on the basis of paid communications regarding candidates is limited to associations that engage in express advocacy, and there is no express advocacy absent an appeal or exhortation to act in a particular manner to elect or defeat a candidate.

In 2008 the Board determined that under Chapter 10A, express advocacy is limited to *Buckley's* magic words and "similar words."¹⁸ The Board reaffirmed that determination in 2012 and

¹⁵ 424 U.S. at 44 n.52.

¹⁶ See generally [In the matter of the Complaint of Richard V. Novack regarding Minnesota Majority, \(Dec. 3, 2008\)](#) (discussing whether communications included *Buckley's* magic words or "similar words"); [Advisory Opinion 428 \(Aug. 7, 2012\)](#) (stating that whether a communication constitutes express advocacy depends on whether the communication contains "the magic words of *Buckley* (or similar words)").

¹⁷ *FEC v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238, 249 (1986).

¹⁸ [In the matter of the Complaint of Richard V. Novack regarding Minnesota Majority, \(Dec. 3, 2008\)](#).

explained that “an expanded interpretation of express advocacy should be promulgated through the rulemaking or legislative process rather than through the advisory opinion process.”¹⁹ At that time Chapter 10A did not define the term expressly advocating, but defined the term independent expenditure to include only an expenditure “expressly advocating the election or defeat of a clearly identified candidate.”²⁰ A definition of the term expressly advocating was added to Chapter 10A in 2013, meaning “that a communication clearly identifies a candidate and uses words or phrases of express advocacy.”²¹

In 2013 and after, the Board has provided the Legislature with recommendations calling for express advocacy to be defined in a manner that includes communications susceptible of no reasonable interpretation other than as an appeal advocating the election or defeat of one or more clearly identified candidates.²² In the absence of approval of a more expansive definition of expressly advocating, the Board does not need to consider whether the NSLA’s Facebook advertisements are the functional equivalent of express advocacy. Because the Facebook advertisements do not contain an appeal or exhortation to vote for or against a specific candidate, and there is no other evidence of express advocacy communications presently before the Board, there is not probable cause to believe that the NSLA has engaged in express advocacy. Consequently, there is not probable cause to believe that the NSLA violated the registration requirements in Chapter 10A by failing to register a political fund.

Single Committee Requirement

Minnesota Statutes section 10A.105, subdivision 1, provides that a “candidate may not authorize, designate, or cause to be formed any other political committee bearing the candidate's name or title or otherwise operating under the direct or indirect control of the candidate.” Because there is not probable cause to believe that the NSLA is a political committee, the Board does not need to consider whether the NSLA has operated under the control of Representative Mortensen. Therefore, there is not probable cause to believe that Representative Mortensen controlled a political committee other than his own principal campaign committee.

¹⁹ [Advisory Opinion 428 \(Aug. 7, 2012\)](#). This advisory opinion was issued shortly after the Fourth Circuit Court of Appeals upheld the FEC rule defining “expressly advocating” to include communications that “could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s).” The rule was challenged on First Amendment and vagueness grounds and the United States Supreme Court later declined to review the Fourth Circuit’s decision.

²⁰ See [Minn. Stat. § 10A.01, subd. 18](#).

²¹ [Minn. Stat. § 10A.01, subd. 16a](#).

²² Such recommendations were provided for the calendar years 2013, 2014, 2018, 2019, 2020, and 2021. Also, in 2009, 2010, 2013, 2014, 2015, and 2016 the Board recommended that the Legislature address what are known as electioneering communications.

Order:

1. The allegation that the North Star Liberty Alliance violated Minnesota Statutes section 10A.14, subdivision 1, by failing to register with the Board is dismissed without prejudice because there is not probable cause to believe that the North Star Liberty Alliance is a political committee or has an accumulation of money that constitutes a political fund.
2. The allegation that Representative Erik Mortensen controlled the North Star Liberty Alliance and thereby violated Minnesota Statutes section 10A.105, subdivision 1, is dismissed without prejudice because there is not probable cause to believe that the North Star Liberty Alliance is a political committee.

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

Date: July 29, 2021

EXHIBIT 1

Inactive
Aug 3, 2020 - Aug 8, 2020
ID: 292763028474301

North Star Liberty Alliance
Sponsored · Paid for by North Star Liberty Alliance

Erik Mortensen pledges to vote 100% pro-liberty on all key issues on his North Star Liberty Alliance candidate survey.

This means Erik has signed his name behind cutting government overreach, increasing transparency, rejecting cronyism, and so much more.



Amount spent (USD): <\$100
Potential Reach: 1K - 5K people


See Ad Details

Inactive
Aug 3, 2020 - Aug 8, 2020
ID: 955202831567928

North Star Liberty Alliance
Sponsored · Paid for by North Star Liberty Alliance

Marianne Stebbins pledges to vote 100% pro-liberty on all key issues on her North Star Liberty Alliance candidate survey.

Marianne has signed her name behind cutting government overreach, increasing transparency, rejecting cronyism, and so much more.



Amount spent (USD): <\$100
Potential Reach: 1K - 5K people


See Ad Details

Inactive
 Aug 6, 2020 - Aug 11, 2020
 ID: 989350758184721

North Star Liberty Alliance
 Sponsored • Paid for by North Star Liberty Alliance

Jeremy Munson pledges to vote 100% pro-liberty on all key issues on his North Star Liberty Alliance candidate survey

Jeremy has signed his name behind cutting government overreach, increasing transparency, rejecting cronyism, and so much more.



JEREMY MUNSON
 PLEDGES TO VOTE
 100% PRO-LIBERTY

CANDIDATE FOR STATE HOUSE DISTRICT 23B

Amount spent (USD): <\$100
 Potential Reach: 10K - 50K people


See Ad Details

Inactive
 Aug 6, 2020 - Aug 11, 2020
 ID: 288259585815177

North Star Liberty Alliance
 Sponsored • Paid for by North Star Liberty Alliance

Erik Mortensen pledges to vote 100% pro-liberty on all key issues on his North Star Liberty Alliance candidate survey.

This means Erik has signed his name behind cutting government overreach, increasing transparency, rejecting cronyism, and so much more.



ERIK MORTENSEN
 PLEDGES TO VOTE
 100% PRO-LIBERTY

CANDIDATE FOR STATE HOUSE DISTRICT 55A

Amount spent (USD): <\$100
 Potential Reach: 1K - 5K people

See Ad Details

Inactive
 Aug 6, 2020 - Aug 11, 2020
 ID: 743058689852681

North Star Liberty Alliance
 Sponsored • Paid for by North Star Liberty Alliance

Jeremy Munson pledges to vote 100% pro-liberty on all key issues on his North Star Liberty Alliance candidate survey

Jeremy has signed his name behind cutting government overreach, increasing transparency, rejecting cronyism, and so much more.



Amount spent (USD): <\$100
 Potential Reach: 10K - 50K people

See Ad Details

Inactive
 Oct 11, 2020 - Nov 3, 2020
 ID: 769851743857118

North Star Liberty Alliance
 Sponsored • Paid for by North Star Liberty Alliance

Erik Mortensen has signed the pledge to OPPOSE all tax hikes in Minnesota!

Press SHARE to ensure the people of Shakopee and beyond know where their candidates stand on the issues.



Amount spent (USD): \$200 - \$299
 Potential Reach: 10K - 50K people

See Ad Details

Inactive Facebook Instagram More
 Oct 10, 2020 - Nov 3, 2020
 ID: 398303237837476
 🔊

Inactive Facebook Instagram More
 Oct 12, 2020 - Oct 22, 2020
 ID: 2843904505839279
 🔊

North Star Liberty Alliance
 Sponsored · Paid for by North Star Liberty Alliance

Erik Mortensen has signed the pledge to OPPOSE all tax hikes in Minnesota!

Press SHARE to ensure the people of Shakopee and beyond know where their candidates stand on the issues.

North Star Liberty Alliance
 Sponsored · Paid for by North Star Liberty Alliance

Thomas Manninen has signed the pledge to OPPOSE all tax hikes in Minnesota!

Leave a comment to thank Thomas for taking a stand to keep money in family budgets – not the politicians' purse.





Amount spent (USD): **\$200 - \$299**
 Potential Reach: **50K - 100K people**

Amount spent (USD): **<\$100**
 Potential Reach: **10K - 50K people**

[See Ad Details](#)

[See Ad Details](#)

<p>Inactive Facebook Instagram More</p> <p>Oct 12, 2020 - Oct 22, 2020</p> <p>ID: 783524322381098</p>	<p>Inactive Facebook Instagram More</p> <p>Oct 12, 2020 - Oct 14, 2020</p> <p>ID: 1836067159879020</p>
<p>North Star Liberty Alliance Sponsored • Paid for by North Star Liberty Alliance</p> <p>Thomas Manninen has signed the pledge to OPPOSE all tax hikes in Minnesota!</p> <p>Leave a comment to thank Thomas for taking a stand to keep money in family budgets -- not the politicians' purse.</p>	<p>North Star Liberty Alliance Sponsored • Paid for by North Star Liberty Alliance</p> <p>Leilani Holmstadt has signed the pledge to OPPOSE all tax hikes in Minnesota!</p> <p>Leave a comment and thank Leilani for taking a stand to keep money in family budgets -- not the politicians' purse.</p>
	
<p>Amount spent (USD): <\$100</p> <p>Potential Reach: 10K - 50K people</p>	<p>Amount spent (USD): <\$100</p> <p>Potential Reach: 50K - 100K people</p>
<p>See Ad Details</p>	<p>See Ad Details</p>

Inactive Facebook Instagram More
 Oct 12, 2020 - Oct 14, 2020
 ID: 647010119514602
 📢

North Star Liberty Alliance
 Sponsored · Paid for by North Star Liberty Alliance

Leilani Holmstadt has signed the pledge to OPPOSE all tax hikes in Minnesota!

Leave a comment and thank Leilani for taking a stand to keep money in family budgets – not the politicians' purse.



Amount spent (USD): <\$100
 Potential Reach: 50K - 100K people

See Ad Details

Inactive Facebook Instagram More
 Oct 14, 2020 - Nov 3, 2020
 ID: 1234334863611599
 📢

North Star Liberty Alliance
 Sponsored · Paid for by North Star Liberty Alliance

Leilani Holmstadt has signed the pledge to OPPOSE all tax hikes in Minnesota!

Leave a comment and thank Leilani for taking a stand to keep money in family budgets – not the politicians' coffers.



Amount spent (USD): \$200 - \$299
 Potential Reach: 50K - 100K people

See Ad Details

 Inactive   
Oct 14, 2020 - Nov 3, 2020
ID: 356983349066175


 **North Star Liberty Alliance**
Sponsored · Paid for by North Star Liberty Alliance

Leilani Holmstadt has signed the pledge to **OPPOSE** all tax hikes in Minnesota!

Leave a comment and thank Leilani for taking a stand to keep money in family budgets -- not the politicians' coffers.



LEILANI HOLMSTADT
CANDIDATE FOR STATE SENATE DISTRICT 54
OPPOSES ANY AND ALL TAX HIKES

 Amount spent (USD): **\$100 - \$199**
 Potential Reach: **50K - 100K people**

[See Ad Details](#)