

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

**Findings in the Matter of the Republican Party of Minnesota State Committee and the
Republican Party of Minnesota Federal Committee**

Facts Used In These Findings

The Republican Party of Minnesota has established and registered two separate political committees that are used by the party to accept contributions and make expenditures to elect Republican state and federal candidates and support the activities of the Republican Party. The two committees are the Republican Party of Minnesota State Committee, registration number 20008, (Republican State Committee) and the Republican Party of Minnesota Federal Committee, registration number C00001313, (Republican Federal Committee). The Republican State Committee is registered with the Campaign Finance and Public Disclosure Board (the Board) and is regulated by the provisions on Minnesota Statutes Chapter 10A. The Republican Federal Committee is registered with the Federal Election Commission and is regulated by the Federal Election Campaign Act.

Any committee that is not registered with the Board is an “unregistered association” for the purposes of Chapter 10A, regardless of registration and reports filed in other states or with the Federal Election Commission. Minnesota Statutes, section 10A.27, subd. 13 (b), prohibits an “unregistered association” from making a contribution in excess of \$100 to a political party unit registered with the Board unless at the time the contribution was made, the unregistered association provides the political party unit with a disclosure statement on the activities of the association consistent with the provisions of Minnesota Statutes, section 10A.20. The disclosure must be provided contemporaneous with the contribution, and is then forwarded to the Board by the political party unit that received the contribution with the next scheduled Report of Receipts and Expenditures.

Similarly, Minnesota Statutes, section 10A.27, subd. 13 (a), prohibits a political party unit registered with the Board from accepting a contribution from an unregistered association unless, at the time the contribution was made, the unregistered association provides the recipient with the disclosure required by Minnesota Statutes, section, 10A.20. Therefore, a contribution of greater than \$100 from an unregistered association to a political party unit made without the required disclosure is a violation of Minnesota Statutes by both the donor and the political party unit receiving the contribution.

The Republican State Committee’s 2008 year-end Report of Receipts and Expenditures filed on February 3, 2009, listed \$559,686 from the Republican Federal Committee on the schedule used for contributions. The \$559,686 was identified as “Transfers from the Federal Account”. Disclosure statements from the Republican Federal Committee were not included with the Republican State Committee’s Report of Receipts and Expenditures.

Board staff discussed the transfers with Darren Bearson, Executive Director of the Republican Party of Minnesota, and Angela Nielsen, Finance Director of the Republican Party of Minnesota at a meeting on February 9, 2009. Ms. Nielsen stated that most if not all of the transfers from the Republican Federal Committee to the Republican State Committee were not contributions but actually reimbursements for the federal share of joint election activities initially paid for by the Republican State Committee. Mr. Bearson and Ms. Nielsen agreed to review the transfers from the Republican Federal Committee and file an amended report to show all reimbursements for expenditures on the miscellaneous income schedule, and not as contributions.

The Republican State Committee filed an amended 2008 year-end election Report of Receipts and Expenditures with the Board on February 17, 2009. The amended report lists all but \$17,000 of the \$559,686 in transfers from the Republican Federal Committee on the schedule for miscellaneous income. With the amended report the Republican State Committee provided a disclosure statement from the Republican Federal Committee for all activity that occurred in 2008. The Republican Party maintains that a similar statement from the Republican Federal Committee for activity through October 20, 2008, was submitted with the Republican State Committee's 2008 pre-general-election Report of Receipts and Expenditures. Board staff has not been able to locate the CD-ROM containing this disclosure statement. Regardless as to the location of the missing CD-ROM, there is no dispute that a disclosure statement from the Republican Federal Committee was not provided at the time the \$17,000 was accepted by the Republican State Committee.

Based on the amended 2008 report it appeared that the \$17,000 contribution from the Republican Federal Committee to Republican State Committee violated Minn. Stat. 10A.27, subd. 13. After reviewing the amended report and all relevant information in executive session at the March 3, 2009, Board meeting, the Board directed staff to start a formal investigation and prepare Findings. Staff notified Mr. Bearson of the Board's investigation of the contributions, and offered the Republican State Committee an opportunity to respond.

On March 20, 2009, Mr. Bearson, submitted a second amendment to the Republican State Committee's 2008 year-end report. The amendment reports the \$17,000 as miscellaneous income from the Republican Federal Committee. In a cover letter accompanying the amendment, Mr. Bearson explains that the Republican Federal Committee has decided to pay all of the cost of certain administrative expenses and is returning the \$17,000 to the State Committee not as a contribution but as a reallocation of the administrative costs. Mr. Bearson states, "Pursuant to the Federal Election Campaign Act of 1971 as amended ("Act") and Federal Election Commission ("FEC") regulations, a state party committee such as RPM that engages in both federal and non-federal activity may pay for its administrative and overhead expenses with 100% federal funds or with a mixture of federal and non-federal funds subject to an allocation formula. ...RPM has identified several administrative expenses that were paid for using a mixture of federal and non-federal funds. RPM, consistent with the Act and FEC regulations, has decided to pay these expenses with 100% federal funds. ...Because the \$17,000 in transfers were corrective in nature, and were made consistent with the Act and FEC regulations, RPM is attaching an amendment to its 2008 Year End Report which lists the transfers as miscellaneous income." Mr. Bearson explains in the letter that the \$17,000 was for administrative costs paid to Bankers Leasing Company, Lexis Nexis, Onvoy, and Campaign Financial Services.

From Mr. Bearson's letter Board staff was not able to determine if the goods and services purchased with the \$17,000 benefited only the Republican Federal Committee. If the goods and services benefited only the Federal Committee then listing the \$17,000 as miscellaneous income (return of an overpayment for services) is correct and removes the \$17,000 as a contribution from an unregistered association. Board staff asked for an explanation of which committee(s) benefited from the \$17,000 in goods and services by letter dated March 23, 2009.

By letter dated March 26, 2009, Ms. Nielsen, responded that, "You have asked for clarification on whether the foregoing transfers back to the RPM's nonfederal account were made because the disbursements in question benefited only the federal committee. Please be advised that the disbursement to Campaign Financial Services benefited only the federal committee. The nonfederal share of this disbursement was \$15,083.20. ...The remaining \$1,923.75 related to payments to Bankers Leasing Company, Lexis Nexis, and Onvoy. We do not have records that specify every aspect of the services that were provided in relation to these disbursements; however, it is our recollection that a significant majority of the services provided were federal in nature."

Ms. Nielsen also reiterated that the Republican Party of Minnesota is authorized by Federal Election Commission regulations to allocate certain expenditures for administrative overhead by a prescribed formula between the State and Federal Committees, or to pay for the full amount with Federal Committee funds.

The Board in executive session considered this matter on March 3, and April 7, 2009. The Board's decision is based upon correspondence from Mr. Bearson and Ms. Nielson and Board records.

Board Analysis

The provisions of Minnesota Statutes, section.10A.27, subd. 13, regulating contributions from unregistered associations does not apply to payments for the fair share of joint expenditures made with another entity, or in this specific case, the reimbursement of \$17,000 paid for services that did not benefit the Republican State Committee. Based on the evidence provided to the Board the \$559,686 in transfers from the Republican Federal Committee to the Republican State Committee are not contributions, and have now been accurately disclosed as miscellaneous income.

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

Findings Concerning Probable Cause

1. There is no probable cause to believe that the Republican Party of Minnesota State Committee violated Minnesota Statutes, section.10A.27, subd. 13 (a), when it accepted transfers in excess of \$100 from the Republican Party of Minnesota Federal Committee as reimbursement or reallocation of the cost of expenditures.

2. There is no probable cause to believe that the Republican Party of Minnesota Federal Committee violated Minnesota Statutes, section.10A.27, subd. 13 (b), when it transferred funds in excess of \$100 to the Republican Party of Minnesota State Committee as reimbursement or reallocation of the cost of expenditures.

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

Order

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

Dated: April 7, 2009

A handwritten signature in cursive script, reading "A. Hilda Bettermann".

A. Hilda Bettermann, Chair
Campaign Finance and Public Disclosure Board

Relevant Statutes

Minn. Stat. §10A.27, subdivision 13. Unregistered association limit; statement; penalty. (a) The treasurer of a political committee, political fund, principal campaign committee, or party unit must not accept a contribution of more than \$100 from an association not registered under this chapter unless the contribution is accompanied by a written statement that meets the disclosure and reporting period requirements imposed by section 10A.20. This statement must be certified as true and correct by an officer of the contributing association. The committee, fund, or party unit that accepts the contribution must include a copy of the statement with the report that discloses the contribution to the board. This subdivision does not apply when a national political party contributes money to its affiliate in this state.

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

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

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

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