

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

**Findings and Order in the Matter of the Complaint of Pat Shortridge regarding the  
Minnesota DFL and the Democratic Legislative Campaign Committee**

**The Complaint**

On November 5, 2012, Pat Shortridge, then Chair of the Republican Party of Minnesota (RPM), filed a complaint with the Campaign Finance and Public Disclosure Board alleging that the Minnesota Democratic Farmer Labor (DFL) Party violated Minnesota Statutes section 10A.27, subdivision 13, by accepting contributions of more than \$100 from an unregistered association without written statements meeting the disclosure requirements of section 10A.20 as required by section 10A.27, subdivision 13. The complaint also alleges that the Democratic Legislative Campaign Committee (DLCC), the donor of the subject contributions, violated the same statutory provision by not providing a complete disclosure statement with each contribution.

As evidence of the violations, the complaint refers to the Minnesota DFL Party's 2012 pre-general-election report which showed six contributions from the DLCC to the Minnesota DFL totaling \$550,000. The complaint compares the one-page disclosure statements that the DLCC submitted with its contributions to the multiple-page report of receipts and expenditures that the DLCC filed with the Internal Revenue Service and claims that this difference shows that the DLCC's Minnesota disclosure statements did not disclose all of the information necessary to meet the statutory requirements.

On January 16, 2013, the RPM filed a second complaint alleging that even if the contributions were made by the DLCC acting as an unincorporated association, the disclosure provided with the contributions did not meet the requirements of section 10A.27, subdivision 13. The two complaints were combined for investigation.

**The Response**

The Board notified both the DFL and the DLCC of the complaint and offered each an opportunity to respond. Board staff also met with representatives of the DFL and the DLCC to obtain a better understanding of the relationships that underlie the allegations of the complaint. Over the course of the investigation, the Board obtained additional information and responses from the DLCC.

The DLCC states that it is a national association of Democratic state legislators whose purpose is to influence legislative elections in the various states. The DLCC states that when it was established in 1994, it chose to incorporate as a nonprofit corporation under the District of Columbia's Nonprofit Corporation Act solely for liability purposes.

The DLCC states that it recognizes that some states prohibit all contributions from corporations, even those incorporated solely for liability purposes. The DLCC explained that its board of directors therefore instructed its officers to form a nonprofit unincorporated association so that this new entity could make contributions and expenditures in the states that prohibit all corporate contributions.

The DLCC acknowledges that its corporate officers manage the affairs of the entire DLCC, including the component it considers to be an unincorporated association. The DLCC further acknowledges that it does all of its fundraising under a single umbrella with no differentiation between the DLCC and the unincorporated association. All money is solicited as donations to "the DLCC" for its general purposes.

The DLCC indicates that it maintains multiple bank accounts, some of which it assigns to the unincorporated association. When a donation is received, the DLCC managers use predefined criteria to decide into which of these several accounts the proceeds of the donation will be deposited. Donations from individuals may be deposited into any of the various accounts. Corporate donations are never deposited into any account reserved for donations from individuals.

The DLCC also responded with regard to the level of disclosure it believed it should be required to provide. All DLCC responses were reviewed by the Board and are part of the record of this matter. This matter was regularly considered by the Board during the executive session of its meetings, at which time the Board provided direction to staff. At its meeting of April 1, 2014, Mr. Brian Svoboda, attorney for the DLCC appeared and addressed the Board regarding the matter. The Board provided further direction to staff and laid the matter over to its April 22, 2014, meeting at which the matter was again considered.

### **Board Analysis**

On September 21, 2012, October 11, 2012, and October 17, 2012, the DLCC made six contributions to the Minnesota DFL Party totaling \$550,000. Two contributions were made on each date. All of the contributions were made from one of the DLCC's accounts into which only the proceeds of donations from individuals were deposited. Each contribution to the Minnesota DFL was accompanied by a letter stating that the DLCC would make the disclosure required by law. Attached to each letter was a disclosure statement that included receipt and disbursement information only for the single bank account from which the Minnesota DFL contribution was made. The Minnesota DFL submitted these disclosure statements with its pre-general-election campaign finance report.

On October 24, 2012, and October 25, 2012, the DLCC made two additional contributions to the Minnesota DFL totaling \$150,000. These contributions were made from the same account as the earlier contributions to the DFL. These contributions also were accompanied by letters agreeing to make the required disclosure and by disclosure statements showing the receipts and disbursements for the single account from which the contributions were made. The Minnesota DFL submitted these disclosure statements with its 2012 year-end campaign finance report.

Board records also indicate that the DLCC made two contributions to the DFL in 2005 totaling \$35,000, three contributions in 2006 totaling \$340,000, and one contribution of \$25,000 in 2010. In each case the DFL provided with its periodic reports the disclosure statement it received from the DLCC. A comparison by Board staff of the disclosure statements provided to the DFL with the disclosure reports filed with the Internal Revenue Service for the same periods suggests each disclosure statement, like those provided in 2012, included transactions only from the single bank account from which the subject contribution was made.

Pursuant to Minnesota Statutes Chapter 10A, the Board has the authority to investigate all reports filed with it. When the Board accepts a complaint, it exercises its statutory authority to investigate all possible violations of Chapter 10A that might arise from the conduct alleged in the complaint or from the reports under review regardless of whether the complainant clearly and specifically raised those violations in the complaint. In this matter, the Board exercised that authority to expand the investigation to include all of the contributions to the DFL from the DLCC even though the complaint only included contributions reported in the DFL's 2012 pre-general-election report.

The question before the Board is whether the disclosure provided by the DLCC, relating to only one of several accounts it maintained, met the requirements of Minnesota Statutes section 10A.27, subdivision 13.

In its responses, the DLCC suggests that its disclosure is sufficient on the basis of the limited disclosure of underlying sources that is permitted under Minnesota Statutes section 10A.12, subdivision 5. However, the Board concludes that this section is only available for the transfer of money that consists of "membership dues and fees." The DLCC acknowledges that the source of money used for the contributions to the DFL was unrestricted donations from individuals who were not its members. Thus, the Board concludes that the disclosure system of section 10A.12, subdivision 5, is not applicable in this matter.

The Board recognizes that the DLCC managers could have formed a Minnesota political committee, registered it with the Board and raised money from individuals for its Minnesota political activity. The association that constituted the political committee could have been as simple as two DLCC managers or as complex as the DLCC chose to make it. However, there is an important distinction between what the DLCC did and what it *could have done*. A Minnesota political committee is recognized as an entity separate from any other association, including a corporation, that might be affiliated or associated in some way with the political committee. As a separate entity, the political committee raises money in its own name and makes its own expenditures. As a result, it reports only on its own activity.

Under its current method of operation, the DLCC raises money generically under the DLCC name, which makes its money general treasury money as defined in Chapter 10A. Although the DLCC managers allocate the money out to separate bank accounts, this occurs after it has already become a part of the association's general treasury money. Because it did not establish a separate political committee and raise money specifically for that committee at the time, the only authority permitting the DLCC to contribute to a Minnesota political party is provided by Minnesota Statutes section 10A.27, subdivision 13. Under that section, the reporting entity is the association itself, not an bank account into which the association's management decides whose contributions will be placed. Accordingly, the Board concludes that when an unregistered association makes a contribution pursuant to the limited right granted under section 10A.27, subdivision 13, the disclosure statement that is provided should include all of the information required by section 10A.20, subdivision 3, for the entire association that made the contribution.

The facts of this matter and the responses of the DLCC make it clear that there was no effort or intent on the part of the DLCC to hide any of its donors from the public. In fact, the DLCC files reports annually with the Internal Revenue Service listing its donors even in years that it makes no contributions in Minnesota. Additionally, the DLCC did provide disclosure to the DFL with each of its 2012 contributions. That disclosure was consistent with the disclosure it had

provided each time it made a contribution to the DFL since 2005 and which had been accepted by the Board without comment.

As a result of its interchanges during this investigation, the DLCC now understands the Board's conclusion that when an unregistered association makes a contribution pursuant to the limited right granted under section 10A.27, subdivision 13, the disclosure statement that is provided must include all of the information required by section 10A.20, subdivision 3, for the entire association that made the contribution.

The DLCC also understands a political committee will disclose a more limited set of information because the political committee raises and spends money in its own name. Donors specifically give to the political committee and all donors to the political committee are disclosed, subject to statutory itemization thresholds. After review of Chapter 10A's requirements with Board staff, the DLCC intends to establish and register a Minnesota political committee through which it will raise and spend money to influence Minnesota elections going forward.

The DLCC will designate the checking account from which the contributions to the DFL were made to the Minnesota political committee as its depository. The account has some money in it resulting from individual donations that were deposited into the account prior to the formation of the political committee. Because these donations were placed in the account at the discretion of the DLCC managers rather than because they were intended for the Minnesota political committee, the DLCC asks the Board whether it may retain those donations in the account as part of the political committee's treasury.

A direct conversion of general treasury money to political committee contributions is not provided for under Minnesota statutes. However, the Board recognizes that the DLCC could refund the contributions to the original donors and request that the donors make the contributions back to the political committee. The Board does not typically require an association to engage in exercises of form over substance. Therefore, the DLCC may consider the individual donations in the account to be contributions to political committee if it sends each donor whose donation is to be considered a political committee contribution a written communication indicating that the DLCC has formed a political committee that is registered in Minnesota, that the DLCC wishes to treat the donor's contribution as a contribution to the political committee, and that if the donor wishes to opt out of this treatment, the DLCC will transfer the donor's contribution to another DLCC account. The DLCC should keep a record of these letters and any responses for four years after the 2014 reporting period ends. An amount equal to the donation from any donor who opts out of being a contributor to the political committee must be transferred to some other account of the DLCC and records be retained.

With the establishment of a Minnesota political committee, the DLCC ensures that money raised and used by the committee will be disclosed in full compliance with the requirements of Chapter 10A.

When it filed this complaint with the Board, the RPM also filed a complaint with the Office of Administrative Hearings alleging that the contributions to the DFL constituted corporate contributions. The administrative law judge dismissed the complaint for lack of probable cause. At the time the contributions that are the subject of these complaints were made the Board had no jurisdiction over Minnesota's corporate contribution laws. Although the Board now has limited jurisdiction over these laws, the Board considers the questions of corporate participation

in these transactions, including those from prior years, to be resolved by the OAH proceeding and not subject to further Board review.

The maximum penalty for an unregistered association that violates the disclosure requirement in Minnesota Statutes section 10A.27, subdivision 13 (b), is \$1,000 per violation regardless of the amount of the violation. The Board's approach in these matters has typically been to impose a civil penalty on the donor in the amount of one times the amount that the contributions exceeded the \$100 threshold for contributions from unregistered associations, subject to the \$1,000 per contribution limit. However, this is not a typical section 10A.27, subdivision 13, matter. Here, the Board accepted the association's disclosure over a period of several years before the complaint was filed. Additionally, in a typical matter there has been no effort to comply with the disclosure requirement. Here disclosure statements were prepared and filed, though at an account level rather than at the association level. Finally, the DLCC did disclose all of its donors, though to the IRS, not to the Board. In addition, the DLCC has taken all of the steps recommended by the Board to ensure that it fully meets its disclosure requirements under Chapter 10A in the future.

For these reasons, the Board will not impose a civil penalty in this matter.

Typically where the disclosure requirement of section 10A.27 is not met, the Board requires the recipient to return to the donor any amount in excess of the \$100 that may be accepted from a unregistered association without a disclosure statement. However, the Board does not require associations to engage in transfers merely for the sake of form over substance.

In this matter, the DLCC will register a political committee. If the DFL returns the subject contributions to the DLCC, the DLCC can refund the contributions to the original donors. The DLCC could then solicit the same donors for contributions to its political committee which, in turn, could make donations back to the DFL in full compliance with Chapter 10A. For this reason, the Board will not require the DFL to return the DLCC's contributions

Finally, there is no evidence in the record to suggest anything other than that when the Minnesota DFL Party accepted the contributions from the DLCC, the DFL relied in good faith on the DLCC's representations that the DLCC had made the proper disclosure. The Minnesota DFL Party also submitted the provided disclosure statements with its reports as required by Chapter 10A. Accordingly, the Board will not find that the Minnesota DFL Party violated Minnesota Statutes section 10A.27, subdivision 13 (a), in this case.

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

#### **Findings of Fact**

1. The DLCC made eight contributions to the Minnesota DFL Party in 2012. Two of the contributions were made on September 21, 2012; two were made on October 11, 2012; and two were made on October 17, 2012. The remaining two contributions were made on October 24, 2012, and October 25, 2012.
2. The DLCC also made a total of six contributions to the DFL between 2005 and 2010.
3. The DLCC is not registered with the Board and therefore was required by Minnesota Statutes section 10A.27, subdivision 13, to submit a disclosure statement meeting the

disclosure requirements of Minnesota Statutes section 10A.20 with each of its contributions.

4. The DLCC provided a disclosure statement with each of its contributions. Those statements provided disclosure only on a single account of the association rather on the association itself.
5. In addition to the disclosure statements provided by the DLCC to the DFL, the DLCC filed regular disclosure statements with the Internal Revenue Service disclosing its receipts and expenditures. These statements included all of the DLCC's financial activities. However, similar statements were not provided to the recipient of the subject contributions with each contribution and, thus, could not be filed by the recipient with its next report.
6. The Minnesota DFL Party timely submitted the DLCC's disclosure statements with the DFL Party's campaign finance reports.

#### **Conclusions of Law**

1. Minnesota Statutes section 10A.27, subdivision 13 requires that disclosure statements relate to the association as a whole; the DLCC's disclosure statements related only to the single account from which it made contributions.
2. The data included in filings that the DLCC made with the Internal Revenue Service would have been sufficient to meet the disclosure requirements of section 10A.27, subdivision 13 had it had been provided to the DFL with the subject contributions. The DLCC financial reports for 2012 are currently available online. As a result, the Board will not require the DLCC to submit additional disclosure statements to support the subject contributions.
3. The Minnesota DFL Party did not violate Minnesota Statutes section 10A.27, subdivision 13, because it timely submitted the disclosure statements provided to it by the DLCC with its reports.

**Based on the above Findings of Fact and Conclusions of Law, the Board issues the following:**

#### **ORDER**

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

Dated: June 3, 2014

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/s/ Deanna Wiener  
Deanna Wiener, Chair  
Campaign Finance and Public Disclosure Board

## Relevant Statutes

### Minnesota Statutes section 10A.27 Contribution Limits

Subd. 13. **Unregistered association limit; statement; penalty.** (a) The treasurer of a political committee, political fund, principal campaign committee, or party unit must not accept a contribution of more than \$200 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.

(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 \$200 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 \$200.

(d) This subdivision does not apply:

(1) when a national political party contributes money to its state committee; or

(2) to purchases by candidates for federal office of tickets to events or space rental at events held by party units in this state (i) if the geographical area represented by the party unit includes any part of the geographical area of the office that the federal candidate is seeking and (ii) the purchase price is not more than that paid by other attendees or renters of similar spaces.

### Minnesota Statutes section 10A.20 Campaign Reports

Subd. 3. **Contents of report.** (a) The report required by this section must include each of the items listed in paragraphs (b) to (o) that are applicable to the filer. The board shall prescribe forms based on filer type indicating which of those items must be included on the filer's report.

(b) The report must disclose the amount of liquid assets on hand at the beginning of the reporting period.

(c) The report must disclose the name, address, and employer, or occupation if self-employed, of each individual or association that has made one or more contributions to the reporting entity, including the purchase of tickets for a fund-raising effort, that in aggregate within the year exceed \$200 for legislative or statewide candidates or more than \$500 for ballot questions, together with the amount and date of each contribution, and the aggregate amount of contributions within the year from each source so disclosed. A donation in kind must be disclosed at its fair market value. An approved expenditure must be listed as a donation in kind. A donation in kind is considered consumed in the reporting period in which it is received. The names of contributors must be listed in alphabetical order. Contributions from the same contributor must be listed under the same name. When a contribution received from a contributor in a reporting period is added to previously reported unitemized contributions from the same contributor and the aggregate exceeds the disclosure threshold of this paragraph, the name, address, and employer, or occupation if self-employed, of the contributor must then be listed on the report.

(d) The report must disclose the sum of contributions to the reporting entity during the reporting period.

(e) The report must disclose each loan made or received by the reporting entity within the year in aggregate in excess of \$200, continuously reported until repaid or forgiven, together with the name, address, occupation, and principal place of business, if any, of the lender and any endorser and the date and amount of the loan. If a loan made to the principal campaign committee of a candidate is forgiven or is repaid by an entity other than that principal campaign committee, it must be reported as a contribution for the year in which the loan was made.

(f) The report must disclose each receipt over \$200 during the reporting period not otherwise listed under paragraphs (c) to (e).

(g) The report must disclose the sum of all receipts of the reporting entity during the reporting period.

(h) The report must disclose the name and address of each individual or association to whom aggregate expenditures, approved expenditures, independent expenditures, and ballot question expenditures have been made by or on behalf of the reporting entity within the year in excess of \$200, together with the amount, date, and purpose of each expenditure and the name and address of, and office sought by, each candidate on whose behalf the expenditure was made, identification of the ballot question that the expenditure was intended to promote or defeat and an indication of whether the expenditure was to promote or to defeat the ballot question, and in the case of independent expenditures made in opposition to a candidate, the candidate's name, address, and office sought. A reporting entity making an expenditure on behalf of more than one candidate for state or legislative office must allocate the expenditure among the candidates on a reasonable cost basis and report the allocation for each candidate.

(i) The report must disclose the sum of all expenditures made by or on behalf of the reporting entity during the reporting period.

(j) The report must disclose the amount and nature of an advance of credit incurred by the reporting entity, continuously reported until paid or forgiven. If an advance of credit incurred by the principal campaign committee of a candidate is forgiven by the creditor or paid by an entity other than that principal campaign committee, it must be reported as a donation in kind for the year in which the advance of credit was made.

(k) The report must disclose the name and address of each political committee, political fund, principal campaign committee, or party unit to which contributions have been made that aggregate in excess of \$200 within the year and the amount and date of each contribution.

(l) The report must disclose the sum of all contributions made by the reporting entity during the reporting period.

(m) The report must disclose the name and address of each individual or association to whom noncampaign disbursements have been made that aggregate in excess of \$200 within the year by or on behalf of the reporting entity and the amount, date, and purpose of each noncampaign disbursement.

(n) The report must disclose the sum of all noncampaign disbursements made within the year by or on behalf of the reporting entity.

(o) The report must disclose the name and address of a nonprofit corporation that provides administrative assistance to a political committee or political fund as authorized by section 211B.15, subdivision 17, the type of administrative assistance provided, and the aggregate fair market value of each type of assistance provided to the political committee or political fund during the reporting period.