

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

**Findings and Order in the Matter of the Complaint of Common Cause Minnesota
Regarding Thomas Prichard and the Minnesota Family Council**

The Allegations of the Complaint

On April 19, 2011, Mike Dean, Executive Director of Common Cause Minnesota ("Complainant"), filed a complaint (the "Complaint") with the Campaign Finance and Public Disclosure Board ("the Board") alleging that the Minnesota Family Council ("MFC") and its registered lobbyist, Mr. Thomas Prichard, violated various provisions of Minnesota Statutes Chapter 10A.

The Complaint alleged, and Board records confirm, that Mr. Prichard was, at all relevant times, registered with the Board as a lobbyist for the Minnesota Family Council. In his capacity as MFC's reporting lobbyist, Mr. Prichard filed various reports with the Board.

The Complaint alleges that MFC made expenditures for lobbying purposes in 2010 and that the amount of those expenditures was not included on the applicable Reports of Lobbyist Disbursements filed by Mr. Prichard on behalf of MFC.

The Complaint states that:

The Minnesota Family Council jointly ran a series of ads supporting legislative action for a constitutional amendment that would ban gay marriage and opposing legislation to "redefine marriage."

This allegation is based in part on an article published on May 18, 2011, in the *Minnesota Independent* reporting on that the National Organization for Marriage and the Minnesota Family Council were "coordinating" a \$200,000 media buy. The Complaint also quotes the National Organization for Marriage's website which allegedly announced that "Today NOM is partnering with the Minnesota Family Council to launch a new campaign for a marriage amendment to the Minnesota Constitution."

The Complaint alleges that in every commercial except one, both organizations were credited as having paid for the advertisements.

The Complaint further alleged that the content of the communications and a press release by the National Organization for Marriage made it clear that the communications were to influence legislation and, thus, constituted lobbying under Minnesota Statutes Chapter 10A. If the communications did, in fact, constitute lobbying, the cost of producing, distributing, and broadcasting them should have been included on the Report of Lobbying Disbursements filed by the lobbyist for the organization(s) that paid these costs.

A review of Board records confirms that the Lobbyist Disbursement filed by Mr. Prichard on behalf of MFC for the period ending December 31, 2010, did not disclose any expenses related to the communications that are the subject of this complaint.

The Complaint also alleged that MFC should have disclosed the sources of money that it used to pay for the alleged lobbying communications.

The Investigation and Minnesota Family Council's Responses to the Complaint

On April 15, Board staff notified MFC of the complaint and requested a response. In addition to a general response, the Board requested transcripts of all advertisements and audio/video copies of television advertisements.

In response, MFC provided transcripts of five commercials, four of which ended with the statement "Paid for by the Minnesota Family Council and the National Organization for Marriage." MFC also provided a list of invoices titled "Schubert Flint Public Affairs – NOM Media – Minnesota" which it stated represented the cost of services for the production, distribution, and broadcast of the commercials.

MFC's attorneys, in their response letter, stated that the entire cost of creating, producing, and broadcasting the subject communications was paid by the National Organization for Marriage, not by MFC. Further, MFC's attorney stated that MFC did not agree or obligate itself to reimburse NOM for any costs related to the advertisements and has no intention of doing so.

The Minnesota Family Council also argued in its response that the communications did not constitute lobbying under Minnesota Statutes Chapter 10A.

Subsequent to its initial response letter, MFC provided a sworn affidavit of John M. Helmberger, Chief Executive Officer of MFC dated August 4, 2011. In the affidavit, Mr. Helmberger states that:

Because of their shared goals of preserving traditional marriage in Minnesota, National Organization for Marriage asked MFC to help plan the production and placement of the [subject] ads. While MFC had input as to the production and placement of these ads, MFC did not pay for any part of their production or broadcast, nor is it obligated to reimburse the National Organization for Marriage for any part of the cost of producing or broadcasting the ads. Further, during 2010 MFC did not make any contribution to the National Organization for Marriage.

Based on the responses of MFC and the separate response of the National Organization for Marriage provided in a companion to this complaint and on the affidavit of Mr. Helmberger, the Board concludes that MFC did not pay for the creation or broadcast of the subject communications. Thus, neither Mr. Prichard nor MFC had any reporting obligation with respect to their costs. Having disposed of the matter on this basis, the Board does not reach the question of whether the communications did, in fact, constitute lobbying.

The Board notes that issues related to disclaimers identifying who paid for a communication do not fall within its Chapter 10A jurisdiction.

Based on the Complaint, the Responses, Board records, and the Board's investigation as set forth above, the Board makes the following:

Findings Concerning Probable Cause

1. There is probable cause to believe that the Minnesota Family Council lent its name as a sponsor of a series of communications in 2010 related to the question of a constitutional

