

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

FINDINGS, CONCLUSIONS, AND ORDER IN THE MATTER OF THE MN GUN OWNERS POLITICAL ACTION COMMITTEE

On June 21, 2016, the Campaign Finance and Public Disclosure Board sent a letter to the MN Gun Owners Political Action Committee (MN GO PAC), informing it of a staff review of loans disclosed on MN GO PAC's 2015 and 2016 reports of receipts and expenditures filed with the Board. These reports disclosed a total of \$7,331.61 in loans made to the Minnesota Gun Owners Caucus, a 501(c)(4) nonprofit organization affiliated with the MN GO PAC. In 2015, the MN GO PAC also reported receiving a loan repayment of \$250. In 2016, the MN GO PAC reported the repayment of \$3,400 of these loans. \$3,681.61 in loans remain outstanding.

MN GO PAC initially responded via email on June 21, 2016, stating that the letter had been received and that it would submit an official response by July 8, 2016. The Board received a response on November 10, 2016. The response stated that, "In 2015, in order to better align our organization strategically, we created a 501c4 (the Minnesota Gun Owners Caucus) and changed MNGOPAC to a political fund of the Minnesota Gun Owners Caucus." MN GO PAC further provided that, "In 2015 and again in 2016, MNGOPAC loaned money to its affiliated 501c4, primarily for costs associated with startup (2015) and costs associated with an equipment purchase that would be used by both entities (MNGOPAC and its 501c4) (2016)." The fund also stated that it had received assistance from outside legal counsel and that it "believed [it was] acting within the scope of current Minnesota law."

Following this response, Board staff spoke with Brian Strawser, Treasurer for the MN GO PAC, by phone on January 30, 2017. Board staff informed Mr. Strawser that the loans described in the letter were improper and would have to be repaid to MN GO PAC.

Analysis

The Minnesota Statutes state, "a . . . political fund . . . may not lend money it has raised to anyone for purposes not related to the conduct of a campaign." Minn. Stat. § 10A.17, subd. 3a. The U.S. Code states that 501(c)(4) organizations must be "operated exclusively for the promotion of social welfare, or local associations of employees . . ." 26 U.S.C. § 501(c)(4)(A). IRS regulations clarify this by stating "An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community." 26 CFR § 1.501(c)(4)-1(a)(2). The regulations continue, "The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office." Because of these restrictions, and based on the fact that the loaned money was used for nonprofit startup costs and for purchasing equipment to be used by both the nonprofit and the political fund, the subject loans were not strictly for purposes related to the conduct of a campaign as required by the Minnesota Statutes.

The Board notes that the most efficient way to share equipment between a nonprofit and a political fund is for the nonprofit to purchase the items and for the fund to pay for the use of the equipment at

fair market value as necessary. In a scenario where specific use is not calculated, a prohibited corporate contribution could occur.

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

Findings of fact

1. MN GO PAC, a political fund registered with the Board, made loans totaling \$7,331.61 to the Minnesota Gun Owners Caucus, a 501(c)(4) nonprofit organization.
2. MN GO PAC reported the repayment of \$3,650 of these loans. \$3,681.61 in loans remain outstanding.
3. The Minnesota Gun Owners Caucus could not, and did not, use the money loaned to it for purposes related to the conduct of a campaign.
4. MN GO PAC believed that it was complying with the Minnesota Statutes when it made the loans to the Minnesota Gun Owners Caucus.
5. MN GO PAC's reports, as currently submitted, do not report the fair market value use of the equipment as an expenditure.

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

Conclusion of law

1. The loans made by the MN GO PAC to the Minnesota Gun Owners Caucus were in violation of Minn Stat. § 10A.17, subd. 3a.
2. MN GO PAC did not knowingly violate Minn. Stat. § 10A.17, subd. 3a.

Based on the analysis, finding of fact, and conclusion of law, the Board issues the following:

Order

1. MN GO PAC is ordered to obtain the repayment of the outstanding loans from the Minnesota Gun Owners Caucus within 60 days of receipt of this order. Checks or bank statements documenting the return of the outstanding loans must be provided to the Board when the transfers have been completed.
2. Because MN GO PAC did not knowingly violate Minn. Stat. § 10A.17, subd. 3a, no civil penalty is assessed.
3. MN GO PAC is ordered to submit amendments to any previously filed campaign finance reports within 60 days to report the fair market value of the use of equipment purchased with the loaned funds as an unpaid bill.

4. If the MN GO PAC does not comply with the provisions of this order, the Board's executive director may request that the attorney general bring an action on behalf of the Board for the remedies available under Minnesota Statutes section 10A.34.
5. The Board investigation of this matter is concluded and hereby made a part of the public records of the Board pursuant to Minnesota Statutes section 10A.022, subdivision 5.

/s/ Daniel Rosen
Daniel N. Rosen, Chair
Campaign Finance and Public Disclosure Board

Date: March 1, 2017