

**COMPLAINT FOR VIOLATION OF
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE ACT
SUBMITTED BY COMMON CAUSE MINNESOTA**

Common Cause Minnesota is filing a complaint against Dan McGrath and Minnesota Majority for violating Minn. Stat. §10A.04, subd. 6 and Minn. Stat. §10A.01, subd. 21.

This complaint alleges that Mr. McGrath failed to register as a lobbyist in Minnesota and Minnesota Majority failed to register as a principal lobbying group, thus requiring both to disclose the amount of money they spent in 2010 through 2012 on lobbying efforts to influence legislative action at the Minnesota legislature. Both parties are required to file a report because as an individual and as an organization they engaged in an effort to influence legislative action.

Relevant Documents Attached to This Complaint

1. Exhibit 1 – Minnesota Majority IRS 990 form from 2010.
2. Exhibit 2 – Dan McGrath affidavit to Minnesota Supreme Court on voter ID lawsuit.

Factual Background

1. The Interested Parties.

A. Dan McGrath

Dan McGrath is the executive director of Minnesota Majority. According to IRS 990 tax records, Mr. McGrath is not listed as an employee (See exhibit 2). However, the organization does list \$48,972 in professional services/consultants on the organization's 2010 form 990. Mr. McGrath has not been registered as a lobbyist with the Minnesota Campaign Finance and Public Disclosure Board according to records available on its website.

B. Minnesota Majority

Minnesota Majority is a Minnesota nonprofit corporation recognized by the Internal Revenue Service as a social welfare organization under Code section 501(c)(4). In 2010 it reported revenues of nearly one-quarter of a million dollars, and expenditures slightly below that amount.

Minnesota Majority describes its mission as “to promote traditional values in state and federal public policy through grassroots activism on the part of its members.”¹ Specifically, Minnesota Majority states on its website that its purpose is “INFLUENCING the legislative process.”²

It goes on to say, “Minnesota Majority keeps you informed of important public policy issues that affect you and your family, and equips you with tools that allow you to easily weigh-in on the

¹ <http://www.minnesotamajority.org/AboutUs/tabid/54/Default.aspx>
(visited June 26, 2012).

² <http://www.minnesotamajority.org/AboutUs/tabid/54/Default.aspx>
(visited June 26, 2012).

issues with your elected officials. Our goal is to allow our members to get informed and take action in 5 minutes or less.”

Minnesota Majority has not registered as a principal lobbyist with the Minnesota Campaign Finance and Public Disclosure Board (CFDB) according to records available on its website.

2. Dan McGrath and Minnesota Majority Lobbies Extensively

Based on public statements on its website, a signed affidavit of its executive director (Mr. McGrath), and advocacy tools available on the organization’s website, it is clear that Minnesota Majority engages in extensive activities to develop and promote legislation in Minnesota. Despite this, Minnesota Majority did not respond to the question on its Form 990 whether the organization engages in lobbying. Most organizations make either an affirmative or negative statement on that question. However, for some reason Minnesota Majority has left that question blank.

The clearest evidence that Mr. McGrath and Minnesota Majority have engaged in lobbying is through a signed affidavit that Mr. McGrath made to the Minnesota Supreme Court regarding litigation on the voter ID amendment.

Minnesota Majority began working with Representative Mary Kiffmeyer to construct and promote the 21st Century Voter ID Bill (S.F. No. 509) in November 2010. Minnesota Majority representatives testified at the House Government Operations and Elections Committee hearing, the House State Government Finance Committee, the House Ways and Means Committee, the Senate Local Government and Elections Committee, the Senate Finance Committee, the Senate Rules Committee and other legislative committees in favor of the bill. It also met with legislators to provide expert advice and research for the legislation...

Soon after the Governor’s veto, Minnesota Majority began working with Representative Kiffmeyer on a voter identification Constitutional Amendment, which provides for Voter ID requirements similar to the 21st Century Vote ID bill. In addition to meeting with senators and representatives to consult on the Amendment, Minnesota Majority testified at the Senate Finance Committee and the Senate Committee on State Government Innovation and Veterans hearings in favor of the Amendment.

Both of these statements show how Mr. McGrath and Minnesota Majority have engaged in lobbying activities in Minnesota over the past two years. In the same affidavit, Mr. McGrath states, “Given its significant investment of time, attention and money toward the enactment of the Amendment, Minnesota Majority has a substantial and direct interest in the outcome of this matter.”

Second, Minnesota Majority’s website requests that supporters contact their legislators on key issues throughout the year. This website urged supporters to contact their legislators in support

of the constitutional amendment on voter ID³, support the Employee Freedom Amendment⁴, petition lawmakers to oppose taxpayer funded abortions⁵, and to support immigration enforcement⁶. There is other content on the website that also urges supporters to contact legislators in support of legislation that was before the Minnesota legislature. This review of content was only for the last legislative session. However, there are likely similar requests that go beyond this legislative session and should be investigated.

VIOLATIONS OF MINNESOTA LAW

1. Failure to Register and File an Individual and Principal Report

Mr. McGrath of Minnesota Majority has failed to register as a lobbyist with the Minnesota CFDB, which is a violation of Minn. Stat. §10A.01, subd. 21. As the Executive Director of the organization, Mr. McGrath has lobbied the legislature extensively as described in his affidavit to the Minnesota Supreme Court. In a review of the organization's website, this issue appears to be the top priority of the organization and it is clear that he spends a majority of his time advocating for voter ID at the legislature as described in the signed affidavit. Finally, Mr. McGrath was likely paid around \$50,000 as executive director and he spent a significant amount of time lobbying the legislature in support of the amendment, by his own admission. That amount exceeded the \$3,000 threshold that is required for an individual to register as a lobbyist.

During the past year and likely beyond that time frame, Mr. McGrath has spent more than \$250 for the purpose of attempting to influence legislative action. This expense occurred through the expenses associated with the development of a video that was presented to legislators in support of the Voter ID legislation and amendment. Common Cause Minnesota does not have the official invoice for this expense, but videos of this kind cost over \$250 to develop. In addition, Minnesota Majority paid over \$250 for the email communication system to urge members to support various pieces of legislation.

In addition to failing to register as a lobbyist, Minnesota Majority has failed to register as a lobbyist principal. In order to find a violation under Minn. Stat. §10A.04, subd. 6, there are two tests that must be met: (1) an individual or association; (2) must have spent over \$50,000 in a calendar year to influence legislative action.

By examining the principal's Form 990 of Minnesota Majority from 2010, they spent \$192,900 in program expenses. Since Minnesota Majority made a significant investment in time and

³ <http://www.capwiz.com/mnmajority/issues/alert/?alertid=23441596&type=ST>

⁴ <http://www.capwiz.com/mnmajority/issues/alert/?alertid=60933226>

⁵ <http://www.capwiz.com/mnmajority/issues/alert/?alertid=10834101>

⁶ <http://www.capwiz.com/mnmajority/issues/alert/?alertid=10757971>

money supporting the voter ID amendment, it is reasonable to conclude that Minnesota Majority spent over the \$50,000 threshold required for organizations to report their lobbying expenditures.

Requested Penalties

Common Cause Minnesota respectfully requests the Minnesota Campaign Finance Disclosure Board find that Mr. McGrath and Minnesota Majority guilty of violating the Minn. Stat. §10A.04, subd. 6 and Minn. Stat. §10A.01, subd. 21.

We urge the CFBD to assess the following penalties:

- Send notice by certified mail to the Minnesota Majority for failure to file a principal report as outlined in Minn. Stat. §10A.04, subd. 1.
- Send notice by certified mail to the Minnesota Majority for failure to file a principal report as outlined in Minn. Stat. §10A.04, subd. 6.
- Assess a civil penalty of \$1,000 for violating Minn. Stat. §10A.04, subd. 6 for failing to submit a principal report with the board.
- Conduct an audit of the Minnesota Majority financial records to assure that the information provided to the CFDB is accurate.

Considering the nature of the scheme to circumvent Minnesota's lobbyist disclosure laws and the length of time that they have failed to register as a lobbyist, we encourage the CFDB to seek the maximum penalties to send a clear message that these attempts to undermine disclosure will not be tolerated.

Common Cause Minnesota

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STATE OF MINNESOTA
IN THE SUPREME COURT

No. A120920

League of Women Voters Minnesota;
Common Cause, a District of Columbia
nonprofit corporation;
Jewish Community Action, a Minnesota
nonprofit corporation;
Gabriel Herbers;
Shannon Doty;
Gretchen Nickence;
John Harper Ritten; and
Kathryn Ibur,

Petitioners,

vs.

Mark Ritchie, in his capacity as
Secretary of State of the State of
Minnesota, and not in his
individual capacity,

Respondent.

AFFIDAVIT OF DAN MCGRATH

I, Dan McGrath, being duly sworn, hereby depose and state as follows:

1. I am the Executive Director of Minnesota Majority Inc., a non-profit corporation established to promote traditional values in state and federal public policy through grassroots education and activism on the part of its members.
2. Minnesota Majority maintains an active volunteer base. In addition to conducting research, the organization attends local events to educate voters on key issues. One of the key legislative issues that Minnesota Majority focuses on is reducing voter fraud in Minnesota elections.

3. Numerous polls have shown that voter ID is a proposal that has strong support among all political parties and demographic groups.
4. Prior to the 2008 general election, Minnesota Majority conducted a review of Minnesota's voter records and discovered a number of apparent irregularities, including double voting, vacant and non-deliverable addresses used in voter registrations, deceased people remaining on voter registration lists, felons newly registered to vote, duplicate voter registration records, deficient voter registration records and numerous others.
5. Minnesota Majority communicated a number of these concerns in a letter to Minnesota Secretary of State Mark Ritchie on October 16, 2008. Secretary Ritchie responded by convening a press conference, surrounding himself with a number of county election officials and assured voters that Minnesota had the best electoral system in the nation. His formal response letter was received on October 23, 2008 and it was largely dismissive of the discoveries.
6. The Secretary of State's office said it was not its job to investigate election problems and suggested contacting the county attorneys in the counties in which these problems occurred. On October 31, 2008, Minnesota Majority forwarded the evidence it found of potential voter fraud to 30 county attorneys and 30 county auditors and requested an investigation of these irregularities. Fewer than half of the county attorneys responded to the request and those that did were largely dismissive of the concerns.
7. Minnesota Majority also sent certified letters to the US Justice Department on November 17, 2008 and again on October 5, 2009, requesting a formal investigation into what it believed to be violations of the Help America Vote Act by Secretary Ritchie. Both letters went unanswered.

8. In October 2010, Minnesota Majority launched its Election Integrity Watch Program. The project's objective is to improve the overall integrity of elections in Minnesota by training thousands of voters on how to spot voter fraud and what to do about it when they do.

9. In addition to speaking with local groups about its research and findings concerning voter fraud in Minnesota, Minnesota Majority appeared on numerous radio programs throughout the state including WCCO, KKMS, KSTP, and AM1280. Minnesota Majority also participated in interviews with Channel 5 News, KARE-11 News, Channel 4 News, Fox 9 TV, Fox News Channel, SCCTV and other television and radio stations. Its research has been featured by a number of major news organizations, including Fox News, The Washington Examiner, the Wall Street Journal, Pioneer Press, KSTP, KMSP and the Star Tribune.

10. Minnesota Majority began working with Representative Mary Kiffmeyer to construct and promote the 21st Century Voter ID Bill (S.F. No. 509) in November 2010. Minnesota Majority representatives testified at the House Government Operations and Elections Committee hearing, the House State Government Finance Committee, the House Ways and Means Committee, the Senate Local Government and Elections Committee, the Senate Finance Committee, the Senate Rules Committee and other legislative committees in favor of the bill. It also met with legislators to provide expert advice and research for the legislation.

11. The 21st Century Voter ID bill received a final passage vote on May 6, 2011. On May 29, 2011, Governor Drayton vetoed the bill, claiming it lacked bi-partisan involvement.

12. Soon after the Governor's veto, Minnesota Majority began working with Representative Kiffmeyer on a voter identification Constitutional Amendment, which provides for Voter ID requirements similar to the 21st Century Vote ID bill. In addition to meeting with senators and representatives to consult on the Amendment, Minnesota Majority testified at the Senate Finance

Committee and the Senate Committee on State Government Innovation and Veterans hearings in favor of the Amendment.

13. On April 4, 2012, the Minnesota Legislature approved the Voter Identification Amendment.

14. I am aware that a coalition of petitioners has filed a Petition with the Supreme Court of Minnesota seeking to have the ballot question pertaining to the Amendment struck and to prevent the Secretary of State from placing the Amendment on the November 2012 ballot.

15. I am aware that the sole-named Respondent in the Petition, Minnesota Secretary of State Mark Ritchie, has publically opposed the Amendment since its outset. He testified against it before the Minnesota Legislature multiple times and has published numerous op-eds against the Amendment.¹ I have personally witnessed the Secretary's testimony and have read his op-eds.

16. Due to the Secretary of State's vigorous public opposition to the Amendment, I do not believe he will be able to adequately defend Petitioners' challenge to the Amendment.

17. Given its significant investment of time, attention and money toward the enactment of the Amendment, Minnesota Majority has a substantial and direct interest in the outcome of this matter. Thus, even if the Respondent defends the Amendment, Minnesota Majority has a substantial interest in intervening in this matter to protect and defend its interests.

¹ See e.g., Written Testimony for the Senate State Government Innovation and Veterans Committee; Office of Minnesota Secretary of State Mark Ritchie (February 29, 2012) (available at <http://www.senate.mn/senators/26Parry/committee/Committee%20Documents/Februar%202012/Written%20Testimony%20for%20SF%201577.pdf>) (last visited June 6, 2012); Secretary of State Mark Ritchie, Op-Ed., *Swift Action Needed to Save Same Day Registration*, Mar. 28, 2012, (available at <http://www.sos.state.mn.us/index.aspx?recordid=607&page=10>); *Secretary of State Mark Ritchie's Statement Regarding House Taking Up Constitutional Amendment On the Floor Today*, Mar. 03, 2012, (available at [ww.sos.state.mn.us/index.aspx?recordid=603&page=10](http://www.sos.state.mn.us/index.aspx?recordid=603&page=10)); News Release; *Secretary of State Mark Ritchie Urges Senate Not to Rush to Pass the Amendment to Eliminate Same-Day Registration*, Mar. 21, 2012, (available at <http://www.sos.state.mn.us/index.aspx?recordid=609&page=10>)

I swear under the penalty of perjury under the laws of the State of Minnesota that the factual statements in this Affidavit are true and correct to the best of my knowledge and understanding.

Executed on June 7th, 2012.

A handwritten signature in black ink, appearing to read "Dan McGrath", written in a cursive style.

Dan McGrath
Executive Director, Minnesota Majority, Inc.