STATE OF MINNESOTA
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD

Finding and Order in the Matter of the Complaint of Doug Baker regarding the Ken Tschumper for the Minnesota House committee

The Allegation in the Complaint

On September 10, 2012, the Campaign Finance and Public Disclosure Board received a complaint regarding the Ken Tschumper for the Minnesota House committee. This complaint alleges that the committee violated Minnesota Statutes Chapter 10A by not disclosing all of its expenditures on its pre-primary report of receipts and expenditures. Specifically, the complaint maintains that on July 2, 2012, the committee bought advertising time from radio station KFIL FM for $283.50 but did not report this expenditure on its July 30th report.

The Response to the Complaint

In its response, the Ken Tschumper for the Minnesota House committee admits that on July 2, 2012, the committee bought advertising time for July from radio station KFIL FM. The contract with the radio station shows that the cost of this time was $283.50 and that Mr. Tschumper paid for the time himself with a personal check.

In the response, Mr. Tschumper says that after he placed and paid for the radio ads, he did not give the receipt to the committee treasurer. Instead, "the receipt for these ads accidentally got mixed in with a large number of [Mr. Tschumper's] farm receipts." The treasurer therefore "was unaware of the transaction" when she prepared the committee's pre-primary-election report.

Due to some minor health problems, Mr. Tschumper and his wife did not go through their farm accounts and find the radio ad receipt until mid-August. Mr. Tschumper initially believed that it would be okay to include the radio ad expense on the committee's October report. When Mr. Tschumper heard about the complaint in early September, however, he realized that the committee would have to amend its July report.

Consequently, Mr. Tschumper gave the bill for the radio ads to his treasurer in early September. The treasurer reimbursed Mr. Tschumper for the ads on September 14, 2012. The treasurer also prepared an amended July report and filed it with the Board on September 18, 2012. The amended report shows that on July 2, 2012, the committee incurred an obligation to Mr. Tschumper in the amount of $283.50 for the July radio advertisements.

Board Analysis

The purpose of Minnesota Statutes Chapter 10A, is to promote accurate disclosure of a principal campaign committee's financial transactions so that the public can know how a candidate is raising and spending that money. To further this goal, Minnesota Statutes section 10A.20, subdivision 3, clause g, provides that a candidate's committee must report the name and address of every vendor to whom it has made expenditures of more than $100 in a year. The committee also must report the amount and the purpose of the expenditures. Campaign finance laws further provide that an expenditure is made on the date that the committee becomes obligated to pay for the goods or services purchased, not on the date when the committee actually pays the expense.

Here, the Ken Tschumper for the Minnesota House committee signed a contract for radio time on July 2, 2012, and Mr. Tschumper personally paid for the ads on that date. Because the committee became obligated to pay for the radio ads on July 2, 2012, the radio ad expenditure occurred on that date. The committee, however, did not include this expenditure on its pre-primary-election report, which was due on July 30th. Although the record shows that this omission was not intentional, the failure to include all of the committee's expenditures on its pre-primary-election report violated Minnesota Statutes section 10A.20, subdivision 3, clause g.

A candidate's committee can remedy violations of the statutory reporting requirements by amending its report. Here, the committee amended its pre-primary-election report to include the unpaid expenditure for the radio ads. When a candidate's committee remedies a reporting violation related to the omission of an expenditure, the statutes do not provide for a civil penalty.

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

Finding Concerning Probable Cause

There is probable cause to believe that the Ken Tschumper for the Minnesota House committee did not include an expenditure for radio ads on its pre-primary-election report. The committee, however, amended its report to include this transaction and no violation remains.

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

ORDER

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.02, subdivision 11.

Dated: October 2, 2012 /s/ Greg McCullough

Greg McCullough, Chair
Campaign Finance and Public Disclosure Board

Relevant Statute

Minn. Stat. § 10A.20, subd. 3. Contents of report. (g) The report must disclose the name and address of each individual or association to whom aggregate expenditures, including approved expenditures, have been made by or on behalf of the reporting entity within the year in excess of $100, 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 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.