

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

**Findings, Conclusions, and Order in the Matter of the
Timothy Manthey for Senate Committee**

Summary of the Facts

The investigation of the Timothy Manthey for Senate Committee (the Committee) was initiated by the Campaign Finance and Public Disclosure Board on February 5, 2013, in response to a staff request. The purpose of the investigation was to determine whether the Reports of Receipts and Expenditures filed by the Committee were accurate, and whether the Committee's funds had been used for purposes consistent with the requirements of Chapter 10A and Minnesota Statutes section 211B.12.

The Committee came under staff scrutiny during the administrative termination process required for inactive candidate committees.

Statutory Authority

A candidate must register a campaign committee with the Board once the candidate has raised more than \$750 in contributions. Minn. Stat. §§ 10A.105, subd. 1; 10A.14, subd. 1. At the time of registration the committee must establish a bank account that will be used for all financial transactions of the committee. Minn. Stat. §§ 10A.11, subd. 4; 10A.14, subd. 2. A candidate may purchase an item or service for the committee with personal funds, but when that occurs the purchase is either an in-kind contribution to the committee, or an expenditure that will be reimbursed by the committee at some future date. Minn. Stat. § 10A.20, subd. 3. In either case a committee is required to report in-kind contributions and both paid and outstanding reimbursements to the candidate on the next Report of Receipts and Expenditures filed with the Board. The Report of Receipts and Expenditures is a periodic report that provides public disclosure of all the committee's financial activity, including its available cash balance and outstanding obligations. *Id.* Knowingly filing a false report with the Board is punishable by a civil penalty of up to \$3,000 imposed by the Board and referral for prosecution of a gross misdemeanor. Minn. Stat. § 10A.025, subd. 2.

The responsibility to keep records of a committee's financial activity is found in Minnesota Statutes section 10A.025, subdivision 3:

A person required to file a report or statement or who has accepted record-keeping responsibility for the filer must maintain records on the matters required to be reported, including vouchers, canceled checks, bills, invoices, worksheets, and receipts, that will provide in sufficient detail the necessary information from which the filed reports and statements may be verified, explained, clarified, and checked for accuracy and completeness. The person must keep the records available for audit, inspection, or examination by the board or its authorized representatives for four years from the date of filing of the reports or statements or of changes or corrections to them.

Of note is that a committee must maintain financial records for only four years. However, if a committee amends a report initially filed more than four years ago, the Board assumes that the

amendment is based on information that can be documented, and may require access to the records upon which the amendment is based.

Typically, a candidate's committee is active for as long as the candidate either is elected to serve in office, or actively seeks election to a state level office. Most candidates voluntarily terminate their committees soon after leaving office or deciding that they will not seek office in the foreseeable future. A candidate is not allowed to leave a campaign committee open without activity for an unlimited amount of time. Minnesota Statutes section 10A.245, subdivision 1, provides that a candidate's committee is "inactive" when six years have expired from when the candidate last held elective office, or six years have expired after the last election at which the candidate filed to appear on the ballot.

Minnesota Statutes section 10A.245, subdivision 2, provides that the Board may administratively terminate a candidate's committee when the committee is inactive. The Board provides written notification to the candidate that the committee is deemed inactive and that the committee must disburse its remaining assets and terminate within sixty days of the notice. If a committee has over \$100 in assets it must file a termination report that discloses how the assets were disbursed.

The Board will consider a request to allow an inactive candidate's committee to remain registered past the six year time limit. The request is typically granted if the Board is convinced that the candidate does intend to file for office at an upcoming election, and if the committee provides a bank statement to verify that the committee has the funds it reported on the most recent report to the Board.

All committee assets must be used for the purposes provided for in Minnesota Statutes section 211B.12, and consistent with the provisions of Chapter 10A. Minnesota Statutes section 211B.12 lists permitted uses of money collected for political purposes, and further limits the use of those funds with a general prohibition that states, "Money collected for political purposes and assets of a political committee or political fund may not be converted to personal use."

The legislature gave the Board the authority to compare the expenditures reported by candidates for state-level office to the provisions of Minnesota Statutes section 211B.12, in May 2013. 2013 Minn. Laws, ch. 138, art. 1, § 13. Prior to that time the Board's review of the appropriateness of expenditures was limited to determining whether expenditures were accurately reported.¹

At the same time that the Board was given authority to investigate the possible inappropriate use of committee funds it was given a mechanism to recover funds that were used for inappropriate purposes. In part, Minnesota Statutes section 10A.02, subdivision 11, now provides:

The board may bring legal actions or negotiate settlements in its own name to recover money raised from contributions...No action may be commenced unless the board has made a formal determination, after an investigation, that the money was raised for political purposes as defined in section 211B.01, subdivision 6, and the money was used for purposes not permitted under this chapter or under section 211B.12....Any funds

¹ See Findings and Order in the Matter of the Complaint of Nathan Haase Regarding the Cy Thao Campaign Committee at www.cfboard.state.mn.us/bdinfo/investigation/2-2-2010_Cy_Thao.pdf.

recovered under this subdivision must be deposited in a campaign finance recovery account...

Timothy Manthey for Senate Committee Activities

On April 6, 2000, Timothy Manthey registered the Timothy Manthey for Senate Committee. Mr. Manthey filed to be on the ballot as a candidate for Senate District 44 in 2000. During 2000 the Committee received \$7,481.65 in contributions from individuals, \$2,850 from political party units, \$1,528.56 in a loan from the candidate, and a \$14,743.35 public subsidy payment for total receipts of \$27,505.21. During the election year the Committee became obligated for \$18,636 in campaign expenditures and noncampaign disbursements. The Committee ended 2000 with a reported \$15,377 ending cash balance and \$6,498 in unpaid bills.

In the year-end Reports of Receipts and Expenditures for the years 2001 through 2004 the Committee reported that no contributions were received, and that payments on the unpaid bills from 2000 and other new expenditures had reduced the ending cash balance to a reported \$7,323.87 on December 31, 2004. In 2005 and 2006 the Committee filed "no change" reports stating that the committee had no financial activity during either year, and that the cash balance for the Committee remained \$7,323.87.

Because Mr. Manthey did not file for office in 2004 or 2006 he was notified on May 3, 2007, that his committee was deemed inactive and would need to terminate within 60 days. On August 21, 2007, Mr. Manthey asked the Board to allow the Committee to retain active status as he intended to run for office after redistricting in 2010. Mr. Manthey provided a bank statement verifying that the Committee's account contained the reported \$7,323.87. The Board allowed the Committee to remain active through the 2010 election contingent upon the payment of \$1,146.60 in late fees, civil penalties, and service of process fees accumulated due to the Committee's late filing of the 2003 year-end Report of Receipts and Expenditures. A payment of \$1,146.60 made on the Committee's account was received on November 12, 2007. This reduced the Committee's ending cash balance to a reported \$6,177.27 as of December 31, 2007.

In 2008, 2009, and 2010, Mr. Manthey filed "no change" reports. In 2008 the reported year-end cash balance remained \$6,177.27, but in 2009 and again in 2010 the reported year-end balance was \$6,107.27. Staff did not notice or question the change in the cash balance in 2009; for the purpose of this investigation staff did not require Mr. Manthey to explain the \$70 change in the ending cash balance between 2008 and 2009.

Mr. Manthey did not file to appear on the ballot for office in 2010. Staff notified Mr. Manthey on September 9, 2011, that the Committee was again in inactive status and that the termination of the Committee was now required.

On February 2, 2012, Mr. Manthey filed a 2011 year-end report that was marked as a termination report and indicated that the Committee had no cash balance. The report did not include any information regarding the disposal of the Committee's funds. Staff notified Mr. Manthey by letter that the termination report was not complete because it did not disclose how the Committee had disposed of the \$6,077.27.

Mr. Manthey responded by email on February 3, 2012, which stated, "The remaining funds from the \$6107.12 [sic] were used to pay facility rent, phone, fax, internet, postage, printing and replacement of select equipment used in the office." Staff responded that the email was not

sufficient disclosure and that a full report was required. No further correspondence from Mr. Manthey was received regarding the termination report.

At this point staff became concerned that there had been a diversion of money raised by the Committee to personal use. As the Committee had not been used in an active campaign for more than 10 years, and had been completely inactive for the years 2008 through 2011, there seemed to be no justification for facility rental or any of the other expenses Mr. Manthey mentioned in his email. By letter dated January 3, 2013, staff notified Mr. Manthey that the issues of termination and the use of the Committee's funds had not been resolved, and that staff would request authority to launch a formal investigation and audit if further information was not forthcoming.

On January 31, 2013, Mr. Manthey submitted a 2012 year-end Report of Receipts and Expenditures marked as "no change" with an available cash balance of \$99.

At the February 5, 2013, Board meeting staff requested and received authority to start a formal investigation into the accuracy of the Committee reports, and whether Committee funds had been used for inappropriate purposes.

After receiving notification of the investigation Mr. Manthey contacted staff and requested an informal meeting on the investigation. Staff met with Mr. Manthey on April 30, 2013. The meeting was not a deposition and not conducted under oath. During the meeting Mr. Manthey provided a bank statement for the Committee's account which showed a balance of \$6,107.27 on December 30, 2011. Mr. Manthey stated that he had closed out the account in 2012 and transferred the money to his personal account. Mr. Manthey further stated that he believed that the transfer was appropriate and legal because of unpaid reimbursements the Committee owed him for the use of fax, phone, facility rental, and other similar costs.

By letter dated June 28, 2013, staff laid out the issues to be resolved before the investigation could be closed and the termination of the Committee completed. The letter explained that if Mr. Manthey was now claiming additional expenditures by the Committee over a number of years the accuracy of the reports for those years was now in question. All Reports of Receipts and Expenditures filed with the Board were signed by Mr. Manthey and certified by him as true and complete as of the date they were filed.

This letter also notified Mr. Manthey that the Board now had the authority to enforce the provisions of Minnesota Statutes section 211B.12 and to recover misused committee funds. The letter further explained that for each item now claimed for reimbursement Mr. Manthey would need to provide documentation in the form of invoices or receipts showing that the expenditure occurred, and a written explanation justifying the expenditure in terms of need or benefit to the Committee.

In August 2013 staff again met with Mr. Manthey to explain the documentation that would be needed to support reimbursements made so long after he had appeared on the ballot and to justify amendments to previously filed Committee reports. A schedule for supplying the receipts and amended reports was established. However, throughout this investigation deadlines for providing documentation and amended reports were routinely extended to accommodate Mr. Manthey's work schedule, and because of his delays in collecting records.

On September 16, 2013, Mr. Manthey provided amended reports for the years 2001 through 2011 along with a cover letter explaining some of his actions. No receipts or invoices were filed

with the amendments. In total the amended reports disclosed \$15,789.62 of previously undisclosed campaign expenditures and noncampaign disbursements.

In his letter Mr. Manthey explained that he did not use the Committee's funds to pay for expenditures after 2000 because

After my unsuccessful bid for the Senate in 2000 our campaign had come across a Manthey for Senate campaign check of dubious origination alerted to me from my local long term bank...The problem of misused campaign checks was quickly solved by freezing the account and destroying all physical check books so no more checks could be written.

From that point on I had paid for the remaining expenses of the 2000 campaign as well as the 2006, 2010 and 2012 campaigns from my personal accounts and cash. Another part of my reasoning at the time to use personal funds from that point forward, the year 2001, was that I have always planned on running for the Senate again. It was comfortable knowing I had a campaign war chest...of \$6107.27 that would launch the next campaign. The money remained in the account the entire time.

In his letter Mr. Manthey also pointed out that staff had acknowledged both in meetings and in correspondence that committee funds may be used to pay for late filing fees and civil penalties accrued from the late filing of reports; or used to reimburse the candidate if the candidate paid for the late fees and civil penalties with personal funds. Staff's statements to Mr. Manthey on the use of committee funds to pay for late fees and civil penalties were based on Minnesota Rules 4503.0900, which specifies in part that the payment of fines assessed by the Board is a noncampaign disbursement if paid for with committee funds.

The payment of late filing fees and civil penalties was a significant issue for the Committee. Three Reports of Receipts and Expenditures were filed late and accrued a total of \$2,426.47 in late filing fees and civil penalties. As referenced earlier a payment of \$1,146.60 made from the Committee's account was received in 2007.

The remaining \$1,279.87 was referred to the Department of Revenue for collection on the Board's behalf. The Department of Revenue collected \$1,534.66 (\$992.48 on August 19, 2011, and \$542.18 on June 26, 2012) from Mr. Manthey's personal funds. The \$254.79 collected by the Department of Revenue over the \$1,279.87 referred by the Board was for interest accrued on the Committee's debt and associated collection fees.

After reviewing the additional \$15,789.62 in campaign expenditures and noncampaign disbursements claimed by Mr. Manthey staff developed a detailed list of the documentation and explanations that would be needed to justify a reimbursement with the Committee's funds. Only reimbursements of money collected from Mr. Manthey's personal funds by the Department of Revenue were accepted without further documentation. Mr. Manthey was provided the list of additional information required by letter dated October 1, 2013.

Mr. Manthey did not provide receipts for 2001 until April 10, 2014. Receipts for 2002 through 2011 were not provided until August 14, 2014. A final inquiry to clarify the purpose related to certain receipts was sent to Mr. Manthey by letter dated September 16, 2014. No response was received.

Mr. Manthey appeared at the October 7, 2014, Board meeting in executive session to make a statement and answer questions.

Board Analysis and Conclusions

This investigation is the first by the Board using the authority in Minnesota Statutes section 211B.12 to determine if money raised for political purposes was used for appropriate purposes. When using this authority the Board will give appropriate deference to the uses of the money approved by the treasurer, or in this case, the candidate of the committee. That deference is given because individuals who contribute to a committee expect that the committee will make the best use of that money to further a particular political view point. If a contributor did not believe that the contribution would in some way support and affect elections in Minnesota there would be presumably no reason to make the contribution. Contributors to a committee do not expect, or undoubtedly want, the Board to be involved in determining how to best spend committee funds.

Therefore, the Board interest in evaluating the purpose of committee expenditures is not to determine if the funds were spent wisely; but rather to ensure that the money entrusted to a political committee was not diverted or used for the personal benefit of any individual. The Board will also determine if expenditures were properly disclosed to ensure that the public may evaluate whether the committee is making good use of private contributions and public funds.

The standard of documentation and explanation that Mr. Manthey was required to provide to justify expenditures was high because he was in effect asking the Board to retroactively accept reimbursements to him personally that were not timely reported when the expenditures occurred, and which in most cases were made years after his name was last on the ballot. The Board evaluated the expenditures listed in the amendments against the requirements of Minnesota Statutes section 10A.025. This amounted to a two-part test:

1. Could Mr. Manthey provide the documentation required to prove that expenditures occurred; namely vouchers, canceled checks, bills, invoices, and receipts.
2. Could Mr. Manthey provide in sufficient detail the necessary information to verify, explain, and clarify the purpose of the expenditure; how the expenditure was used to benefit the committee; and how the expenditure complied with the requirements of chapters 10A and 211B.

This second requirement is critical because many goods and services that could be used to benefit a political committee can also be diverted to an inappropriate personal use.

The Board's concern that items purchased with political committee funds may be diverted to personal use increases the longer a political committee is inactive. This concern is further heightened when expenditures are not reported to the Board in the year in which they occurred, but instead are first reported in amendments years later, and after the candidate repeatedly certified that there were no outstanding committee obligations.

Evaluating the records and statements provided for this investigation shows there are few reimbursements claimed by Mr. Manthey that met both tests required to justify a personal reimbursement with Committee funds.

The expenditures for which Mr. Manthey seeks reimbursement were for the most part documented with copies of receipts, invoices, or cashed checks. However, these records only

proved that expenditures occurred; they did not explain how the expenditures were used to benefit the Committee. Despite repeated requests, Mr. Manthey did not provide the detailed explanations requested, and instead relied on the description of the expenditure provided in the amended reports. In most cases these descriptions were vague, and even when combined with the details provided on the receipts did not support a claim that the purchase of the goods or services benefited the Committee.

In fact some receipts were sufficient by themselves to determine that Committee funds could not be used to pay for the expenditure. For example, the documentation for expenditures on the 2009 amendment included a \$93.76 invoice for repair of a toilet in Mr. Manthey's personal residence. The Board cannot imagine an explanation that would justify the use of Committee funds for this expenditure. The same conclusion was reached for multiple receipts for dry cleaning, flowers, and meals.

Some receipts initially appeared to document an expenditure that may have benefited the Committee, but on closer examination raised significant questions. For example, the 2008 amendment contains a \$640.33 expenditure for a "computer for campaign data list." The Board has long recognized that the purchase of a computer for use by a registered committee is a permitted expenditure as long as the computer is only used for purposes related to the committee.² Indeed, in 2000, the Committee reported a reimbursement to Mr. Manthey in the amount of \$1,450 for a computer. The Board did not challenge the expenditure in 2000 and typically does not challenge the purchase of a computer by an active committee. However the receipt for the computer purchased in 2009 showed that the acquisition was made in the name of a company affiliated with Mr. Manthey, not in the name of the Committee. Mr. Manthey was asked to justify the purchase of another computer eight years after his name was last on the ballot, and to explain how the use of the computer was limited to benefit the Committee. Mr. Manthey did not provide any further explanation.

Similar reviews of the documentation provided, and the purpose for the expenditures stated in the 2002 through 2011 amendments, lead the Board to conclude that Mr. Manthey failed to show the Committee's need for or use of the goods and services purchased, or to provide assurances that a given purchase benefited only the Committee. Therefore, the Board does not accept any claimed reimbursement for expenditures that occurred after 2001, other than for late fees and civil penalties collected by the Department of Revenue.

The 2001 amendment lists an additional \$1,876.79 in campaign expenditures (\$642.71 of which are non-itemized) and \$607.90 in noncampaign disbursements. Of the itemized expenditures in 2001 the Board accepts as documented and for campaign-related purposes the cost of attending a leadership conference conducted by the candidate's party (\$149), and an unpaid bill for printing that occurred in 2000 (\$444.56).

The 2001 amendment also lists a payment of \$844.08 for "office supplies", and \$163.34 for postage. In reviewing the specific receipts for office supplies the Board found no justification to use the Committee's funds for office furniture when the Committee did not have an office outside of Mr. Manthey's residence.

However, some of the receipts for office supplies were for more general items such as envelopes, paper, and toner cartridges. There are legitimate campaign related purposes for general office supplies, even during a non-election year. Rather than attempting to determine the use of each ream of paper or box of envelopes the Board will accept \$631.09 in general

² Advisory Opinion 89, (1984).

office supplies bought in 2001 as a reimbursable campaign expenditure. Mr. Manthey was also notified that in order for the Board to accept any other expenditure for general office supplies after 2001 as a valid use of Committee funds he would need to explain the specific activities or events at which the supplies were used. No additional explanation for office supplies claimed after 2001 was received.

The itemized expenditure of \$163.64 for postage on the 2001 amendment was documented with receipts that totaled only \$97.19. Total documented expenditures accepted for reimbursement on the 2001 amendment for general office supplies and postage therefore came to \$728.28.

In summary, of the \$6,107.27 in Committee funds claimed by Mr. Manthey for reimbursement the Board recognizes \$1,534.66 for funds collected from Mr. Manthey by the Department of Revenue, \$728.28 for office supplies and postage bought in 2001, \$149 for a political party leadership conference held in 2001, \$444.56 for payment of an unpaid printing bill in 2001. The remaining \$3,250.77 in Committee funds cannot be claimed for reimbursement and must be returned by Mr. Manthey.

The Board considered whether Mr. Manthey violated Minnesota Statutes section 10A.025, subdivision 2, by knowingly filing false reports with the Board. The reports originally filed by Mr. Manthey for 2001 through 2011 did not contain the \$15,789.62 in campaign expenditures and noncampaign disbursements contained in the amendments. If these omissions were deliberate and with knowledge that the reports were therefore incomplete Mr. Manthey would be in violation of this statute.

The Board declines to find a violation of this statute because of Mr. Manthey's stated belief that he could save the funds in the Committee account for use in some future election if he personally paid for ongoing Committee expenditures. The statutory requirement that all expenditures to benefit the Committee must go through and be reported by the Committee was apparently not considered by Mr. Manthey, and he seemed to believe that an accurate report of the money in the Committee account was sufficient.

In addition to returning \$3,250.77 Mr. Manthey must file a final set of amended reports that show the reimbursements accepted in these findings, and which exclude all other expenditures. Upon completion of the actions ordered in these findings the Committee will be terminated.

Based on the above analysis and the relevant statutes, the Board makes the following:

Findings of Fact

1. The money in the Timothy Manthey for Senate Committee account was raised for political purposes.
2. On December 30, 2011, the account for the Timothy Manthey for Senate Committee contained \$6,107.27.
3. In 2012 the \$6,107.27 was transferred to Timothy Manthey's personal account.
4. Documentation and explanation sufficient to justify \$2,856.50 in reimbursements to Mr. Manthey from the Committee's funds were obtained by the Board.

5. The remaining \$3,250.77 in committee funds were used for purposes not permitted under Chapter 10A, or Minnesota Statutes section 211B.12.
6. The Reports of Receipts and Expenditures filed on behalf of the Timothy Manthey for Senate Committee in 2001 through 2011 did not contain all expenditures incurred by the Committee and were therefore incomplete and inaccurate.
7. The amended Reports of Receipts and Expenditures filed for the years 2001 through 2011 disclose expenditures that may not be made with Committee funds, and are therefore inaccurate.
8. The Timothy Manthey for Senate Committee has been inactive for more than six years.
9. Mr. Manthey did not knowingly certify and file false Reports of Receipts and Expenditures with the Board when he filed reports that showed accurate cash balances for the Committee, but no unpaid reimbursements.

Conclusions of Law

1. Timothy Manthey violated Minnesota Statutes section 211B.12 by using \$3,250.77 collected for political purposes for expenditures not reasonably related to the conduct of an election campaign or qualifying as noncampaign disbursements.
2. Minnesota Statutes section 10A.02, subdivision 11, requires Mr. Manthey to pay \$3,250.77 to the State of Minnesota for deposit in the general account of the state elections campaign fund.
3. Minnesota Statutes section 10A.025, subdivision 4, requires Mr. Manthey to file amended reports that accurately reflect the activities of the Timothy Manthey for Senate Committee for the years 2001 through 2011.
4. After Mr. Manthey has paid \$3,250.77 to the State of Minnesota and filed the required amendments, the Committee is hereby administratively terminated under Minnesota Statutes section 10A.245, subdivision 2.
5. The inaccuracies in the Committee reports were not knowingly made within the meaning of Minnesota Statutes section 10A.025, subdivision 2, and therefore no violation of that statute occurred.

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

ORDER

1. Mr. Manthey is directed to forward to the Board payment of \$3,250.77 by check or money order payable to the State of Minnesota within thirty days of the date of this order.

2. Mr. Manthey is directed to file amended Reports of Receipts and Expenditures for the years 2001 through 2011 that accurately disclose unpaid reimbursements and the disbursal of Committee funds within thirty days of the date of this order.
3. After Mr. Manthey pays the \$3,250.77 and files the amended reports the Committee is administratively terminated without further Board action.
4. The executive director is directed to send Mr. Manthey notice of this order by certified and first class mail and to notify Mr. Manthey that if he does not comply with paragraph 2 of this order , a civil penalty of \$3,000 is by the terms of this order imposed against him personally.
5. If Mr. Manthey does not comply with the provisions of this order, the Board's Executive Director may request that the Attorney General bring an action for the remedies available under Minnesota Statutes.
6. 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 7, 2014

/s/ Deanna Wiener

Deanna Wiener, Chair
Campaign Finance and Public Disclosure Board