

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

**PRIMA FACIE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF STEVEN J. TIMMER REGARDING NEEL KASHKARI

On January 9 2023, the Campaign Finance and Public Disclosure Board received a complaint submitted by Steven J. Timmer regarding Neel Kashkari.

The complaint alleges that Mr. Kashkari violated Minnesota Statutes sections 10A.03 and 10A.04, when he failed to register and file lobbyist reports with the Board. The complaint alleges that Mr. Kashkari moved to Minnesota in 2016 and subsequently attempted to influence legislative action, specifically by advocating for the “Page Amendment” to be added to the general election ballot as a proposed amendment to the Minnesota Constitution. The complaint states that Mr. Kashkari is the president of the Ninth Federal Reserve District headquartered in Minneapolis, Minnesota. The complaint alleges, and Board records reflect, that as of the date of the complaint Mr. Kashkari was not a lobbyist registered with the Board.

The complaint asserts that “[p]roponents of the Page Amendment, and certainly including Mr. Kashkari, have lobbied for the passage of the constitutional amendment the last three sessions, and they give every indication of doing so again this session. But no lobbying reports were made by Mr. Kashkari in 2022, 2021, 2020, 2019, or any other year, explaining the Fed’s money he has spent.” The complaint argues that “[i]t is more than merely probable that Mr. Kashkari has engaged in lobbying, and it is also more than merely probable that he has spent more than \$250 doing it each year.”

The complaint alleges that Mr. Kashkari used his position, and resources available due to his position, “to persuade legislators to pass Page Amendment bills, and he has worked to persuade others to try to persuade legislators as well.” The complaint alleges that “Mr. Kashkari spent the Bank’s resources and personnel freely, resulting in the expenditure of tens of thousands of dollars a year, or more, lobbying for the Page Amendment, since at least 2019.” The complaint includes a letter from John Yanish, Vice President and Deputy General Counsel of the Federal Reserve Bank of Minneapolis, labeled as Exhibit A. The letter includes hyperlinks to various materials regarding the Page Amendment and refers to a letter Mr. Page sent to members of the legislature in February 2021 explaining the purpose of his and Mr. Kashkari’s efforts to amend “Article XIII, Section 1, of the Minnesota Constitution to make a quality public education a civil right for all children.”¹

The complaint includes a chart, labeled Exhibit E, listing specific Federal Reserve Bank of Minneapolis staff members, and specific calls or meetings in which they allegedly participated, concerning education policy, from August 2016 through September 2022. The complaint states

¹ The letter is available at house.leg.state.mn.us/comm/docs/2d1ptzdFNkS2eDbNrHEADg.pdf.

that “[t]he website of the Minneapolis Fed has also published many articles dedicated to the advocacy for the Page Amendment” including “one from February 2021, arguing that the passage of the amendment won’t increase education litigation. . . .”² The complaint alleges that “[m]any members of the Bank’s staff have contributed advocacy articles for the Page Amendment.”

The complainant provides as evidence a link to a webpage containing Mr. Kashkari’s public schedules dating back to 2016, as well as copies of some of those schedules. The schedules include meetings attended by Mr. Kashkari, often with bank staff and Mr. Page, and Governor Tim Walz, Lieutenant Governor Peggy Flanagan, Attorney General Keith Ellison, and legislators, among many others, regarding “Education policy issues.”³ The complaint states that “[m]erely arranging these meeting [sic] must have consumed a lot of administrative staff time.” The complainant argues that the use of federal resources to influence state actions creates serious separation of powers issues.⁴

Determination

Minnesota Statutes section 10A.01, subdivision 21, paragraph (a), clause (2)⁵ defines lobbyist to mean an individual:

who spends more than \$250, not including the individual's own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials.

Minnesota Statutes section 10A.01, subdivision 21, paragraph (c) provides “[a]n individual who volunteers personal time to work without pay or other consideration on a lobbying campaign, and who does not spend more than the limit in paragraph (a), clause (2), need not register as a lobbyist.” The complaint notes that Minnesota Statutes section 10A.01, subdivision 21, paragraph (b) contains a number of exclusions from the definition of lobbyist, including exclusions for public officials, state employees, local officials, and employees of certain political subdivisions in the metropolitan area. The offices and positions included in the definition of “public official” are provided in Minnesota Statutes section 10A.01, subdivision 35, and does not include any elected or appointed positions in the federal government. Therefore, there is no

² The complaint includes a URL for the February 2021 article, which is minneapolisfed.org/article/2021/no-evidence-that-education-amendments-increase-litigation.

³ minneapolisfed.org/about-us/leadership/presidents-schedule

⁴ Because the complaint does not allege that the Federal Reserve Bank of Minneapolis was a principal within the meaning of Minnesota Statutes Chapter 10A, this determination does not address whether it was required to file principal reports under Minnesota Statutes section 10A.04, subdivision 6.

⁵ While Minnesota Statutes section 10A.01, subdivision 21, paragraph (a), clause (1) provides another definition of lobbyist, the complaint does not allege that Mr. Kashkari was compensated more than \$3,000 in any year to engage in lobbying and instead only cites to Minnesota Statutes section 10A.01, subdivision 21, paragraph (a), clause (2). Accordingly, this prima facie determination does not consider whether Mr. Kashkari may be a lobbyist under section 10A.01, subdivision 21, paragraph (a), clause (1).

reason to believe that Mr. Kashkari is excluded from the definition of a lobbyist because of his employment with the Federal Reserve Bank of Minneapolis.

A threshold question when determining whether an individual must register and report to the Board as a lobbyist is whether the definition of lobbyist applies to the individual. The complaint argues that Mr. Kashkari has caused the Federal Reserve Bank of Minneapolis to spend over \$250 on lobbying, and accordingly, Mr. Kashkari is a lobbyist by virtue of spending more than \$250. On at least two prior occasions the Board has addressed whether the \$250 expenditure threshold quoted above may be triggered by an individual's authorized expenditure of an association's money, and on each of those occasions the Board has answered that question in the negative.⁶

In 2011 the Board considered a complaint alleging that one or more individuals were required to register as lobbyists because "someone must have spent more than \$250 to" mail a letter and a DVD to approximately 400,000 households concerning a proposed amendment to the Minnesota Constitution regarding the definition of marriage. As is the case in this matter, in that instance the complaint asserted that the text of the statute establishing the \$250 registration threshold "does not specify whose money is being spent" and argued that if an individual authorized more than \$250 in lobbying expenditures by an association, that individual was required to register as a lobbyist. The Board concluded, based on the following analysis, that "[t]his interpretation of the definition of 'lobbyist' is not supported by an analysis of the history of this particular provision."

Prior to amendments in 2003, the lobbyist definition read:

Subd. 21. Lobbyist. (a) "Lobbyist" means an individual:

(1) engaged for pay or other consideration, or authorized to spend money by another individual, association, political subdivision, or public higher education system, who spends more than five hours in any month or more than \$250, not including the individual's own travel expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials; or

(2) who spends more than \$250, not including the individual's own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials.

As a result of 2003 amendments, the statute read:

⁶ [Findings and Order in the Matter of the Complaint of Kurt M. Anderson regarding the Archdiocese of St. Paul and Minneapolis \(Dec. 8, 2011\)](#); [Findings and Order in the Matter of the Complaint by Common Cause Minnesota regarding Dan McGrath and Minnesota Majority \(Oct. 2, 2012\)](#).

Subd. 21. Lobbyist. (a) "Lobbyist" means an individual:

(1) engaged for pay or other consideration of more than \$3,000 from all sources in any year for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials; or

(2) who spends more than \$250, not including the individual's own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials.

It is important to note that the original 2002 statute included a separate spending threshold of \$250 in both clauses (1) and (2) quoted above.

The spending threshold in clause (1) is triggered if an individual was "**authorized to spend money by another** individual, association, political subdivision, or public higher education system" and spent more than \$250 under that clause. The Clause (2) threshold applied to a person "**who spends more than \$250.**"

Under the 2002 law, if the threshold in clause (2) was triggered by being authorized to spend money by another, as Complainant argues, that interpretation would have rendered the authorized spending threshold of clause (1) redundant. To give meaning to each clause of the statute, the Board has always interpreted clause (2) as triggering a lobbyist registration requirement for a person who spends the person's *own* money. This interpretation gave meaning to each provision of the statute, as is required by the principles of statutory interpretation.

The legislative history of the 2003 amendment described above is that it was enacted as part of a package that required lobbyists to pay a registration fee. While the fee has since been repealed, the other changes remain in place, including the significant modification of the definition of "lobbyist" to base lobbyist status on being paid compensation of \$3,000 in a year.

The amendment to the lobbyist definition also included this narrowing provision:

"Lobbyist" does not include:

. . .

An individual who volunteers personal time to work without pay or other consideration on a lobbying campaign, and who does not spend more than the limit in paragraph (a), clause (2), need not register as a lobbyist.

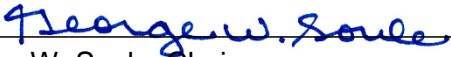
This provision supports the Board's conclusion that the clause (2) threshold applies to a person spending his or her own money.

Before the 2003 amendment, clause (1) was triggered by spending someone else's money and clause (2) was triggered by spending one's own money.

Deleting the spending threshold from clause (1) in favor of a compensation threshold does not alter the interpretation of clause (2).⁷

The complaint does not allege that Mr. Kashkari spent any of his own money on the activities described in the complaint. Based upon the forgoing analysis, the complaint does not state a prima facie violation of the lobbyist registration requirement in Minnesota Statutes section 10A.03, and thereby does not state a prima facie violation of the lobbyist reporting requirements in Minnesota Statutes section 10A.04.

Pursuant to Minnesota Statutes section 10A.022, subdivision 3, paragraph (c), this prima facie determination is made by a single Board member and not by any vote of the entire Board. Based on the above analysis, the chair concludes that the complaint does not state a prima facie violation of Chapter 10A or of those sections of Chapter 211B under the Board's jurisdiction. The complaint is dismissed without prejudice.



George W. Soule, Chair
Campaign Finance and Public Disclosure Board

Date: January 24, 2023

⁷ This analysis appears on pages 5-6 of the [Findings and Order in the Matter of the Complaint of Kurt M. Anderson regarding the Archdiocese of St. Paul and Minneapolis \(Dec. 8, 2011\)](#).