

Minnesota

Campaign Finance and Public Disclosure Board Meeting

Wednesday, February 3, 2021
10:00 A.M.
Conducted remotely via Webex due to COVID-19 pandemic

REGULAR SESSION AGENDA

1. Approval of January 8, 2021 minutes
2. Chair's report
 - a. 2021 meeting schedule
3. Executive director report – no written materials
4. Legislative recommendations
 - a. Economic Interest Statement
 - b. Campaign Finance
5. Review of upcoming U.S. Supreme Court cases involving disclosure by 501(c)(3)s
6. Enforcement report
7. Legal report
8. Other business

EXECUTIVE SESSION

Immediately following regular session

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

.....
January 8, 2021

Meeting conducted remotely though Webex due to COVID-19 pandemic

.....
MINUTES

The meeting was called to order by Chair Haugen.

Members present: Flynn, Haugen, Leppik, Rashid, Rosen (arrived during executive session), Swanson

Others present: Sigurdson, Engelhardt, Olson, Pope, Ross, staff; Hartshorn, counsel

MINUTES (December 2, 2020)

After discussion, the following motion was made:

Member Flynn's motion:

To approve the December 2, 2020, minutes as drafted.

Vote on motion:

A roll call vote was taken. All members voted in the affirmative (Rosen absent).

APPOINTMENT OF CHAIR AND VICE CHAIR FOR 2021

Mr. Sigurdson presented members with a memorandum regarding this issue that is attached to and made a part of these minutes. Mr. Sigurdson told members that at the August Board meeting, Member Haugen had been selected as chair, and Member Swanson had been selected as vice chair, for the remainder of 2020. Mr. Sigurdson said that, typically, at the January meeting the Board would elect the vice chair to serve as chair for the new year, and at the same time select a new vice chair. Mr. Sigurdson stated that Vice Chair Swanson was willing to serve as chair in 2021 but might have limited ability to participate in the February meeting. Member Swanson therefore had asked that Member Haugen continue to serve as chair at the January and February meetings. Mr. Sigurdson said that Member Haugen was willing to continue serving as chair for the additional two months, assuming of course that other Board members had no objections.

Mr. Sigurdson stated that because Member Haugen's term had expired at the end of 2020, there also was the possibility that Governor Walz would appoint someone to replace Member Haugen before the February meeting. Mr. Sigurdson told members that it therefore was important for the Board to appoint a new vice chair at the January meeting so that an officer would be available for the February meeting in the event that Member Haugen was no longer on the Board and Member Swanson was not able to participate. Mr. Sigurdson said that a motion was needed to extend the term of Chair Haugen through February of 2021; to elect Vice Chair Swanson as chair for the term of March through December of 2021; and to nominate and elect a member to serve as vice chair for all of 2021. Mr. Sigurdson stated that these actions could be combined into one motion. After discussion, members decided to delay a decision on the matter until later in the meeting when Member Rosen would be able to participate.

CHAIR'S REPORT

A. 2021 meeting schedule

The next Board meeting is scheduled for 10:00 a.m. on Wednesday, February 3, 2020.

EXECUTIVE DIRECTOR REPORT

Mr. Sigurdson presented members with a memorandum regarding this matter that is attached to and made a part of these minutes. Mr. Sigurdson introduced Erika Ross who had been hired to fill the vacant programs administrator position. Mr. Sigurdson told members that over 800 lobbyist reports were due on January 15th, over 3,000 economic interest statements were due on January 25th, and nearly 1,400 campaign finance reports were due on February 1st. Mr. Sigurdson said that staff had been busy sending out and answering questions about these filings.

Mr. Sigurdson also told members that the second public subsidy payment had been made in December. Mr. Sigurdson said that the Department of Revenue had discovered an error in the formula used to make the August public subsidy payment. The error had led to overpayments to 19 candidate committees and underpayments to another 19 committees. Mr. Sigurdson stated that the underpayments had been corrected with the December payment and that the overpaid committees had been asked to return the excess payment to the state. Mr. Sigurdson said that several committees already had returned the overpaid funds.

LEGISLATIVE RECOMMENDATIONS

A. Lobbying proposal

Mr. Sigurdson presented members with a memorandum regarding this matter that is attached to and made a part of these minutes. Mr. Sigurdson reviewed the new language that would require lobbyists to report bill and rule tracking numbers. Members had asked for this language at the December meeting. Mr. Sigurdson then asked members to consider removing a provision that would require registration as a lobbyist if a person was paid more than \$3,000 to facilitate access to a public official. Mr. Sigurdson explained that legislators and staff had been confused about the effect of this provision and that payment for facilitating access was not a common practice. Mr. Sigurdson also asked members to consider adding language to specify that a staff request for a more specific subject of interest on a lobbying report was a request for amendment covered by the notice and late fee provisions already in statute.

After discussion, the following motion was made:

Member Swanson's motion:	To approve the staff draft of the lobbying proposal as amended on page 1 to remove the "(a)" in clause (1) of the definition of lobbyist.
Vote on motion:	A roll call vote was taken. All members voted in the affirmative (Rosen absent).

B. Technical amendments

Mr. Sigurdson presented members with a memorandum regarding this matter that is attached to and made a part of these minutes. Mr. Sigurdson asked members to consider approving the 2020 technical amendment recommendations because those amendments were needed to improve program administration. Mr. Sigurdson said that two additional provisions had been found that needed technical corrections. One was a reporting provision that had two inaccurate cross references and the other contained incorrect language about where local officials file their statements of economic interest.

After discussion, the following motion was made:

Member Flynn's motion:

To approved the staff draft of the technical amendments.

Vote on motion:

A roll call vote was taken. All members voted in the affirmative (Rosen absent).

C. Policy recommendations

Members then discussed the policy recommendations that had been made in 2020. Members asked Mr. Sigurdson to bring these recommendations to the February meeting for discussion.

ENFORCEMENT REPORT

A. Waiver requests

3. Nobles County DFL (20110)

Mr. Olson told members that the Nobles County DFL was asking to waive a \$1,000 late filing fee that had been imposed for the 2020 pre-general report of receipts and expenditures. Mr. Olson said that the party unit had changed treasurers but had not notified Board staff. Consequently, the notices regarding the pre-general report were sent only to the previous treasurer, Mike McCarvel. Mr. McCarvel believed that the new treasurer was getting the notices too and was taking care of the report. Mr. Olson said that because staff had recently learned that the new treasurer had passed away, staff now was recommending that the entire late fee be waived. Mr. Olson stated that the party unit had received one prior waiver of \$300.

Mike McCarvel, the party unit's former treasurer, then addressed the Board. Mr. McCarvel agreed that the party unit had not notified the Board of the treasurer change. Mr. McCarvel told members that he was not worried about the report because the new treasurer was a responsible person. Mr. McCarvel said, however, that the new treasurer became ill with COVID but managed to file the report shortly before going into the hospital where he passed away. Mr. McCarvel said that the party unit also was asking for a waiver because the \$1,000 late fee was equivalent to 65% of the party unit's yearly income.

After discussion, the following motion was made:

Member Leppik's motion: To waive the entire \$1,000 late fee.

Vote on motion: A roll call vote was taken. All members voted in the affirmative (Rosen absent).

Name of Candidate or Committee	Late Fee & Civil Penalty Amount	Reason for Fine	Factors for waiver and recommended action	Board Member's Motion	Motion	Vote on Motion
50th Senate District RPM (20863)	\$100 LFF	2020 Pre-primary	The treasurer waited until deadline to try filing with CFR software and could not discern username needed to activate software. Report was due 7/27/2020 and was filed 7/29/2020 after treasurer was able to contact Board staff for assistance. Party unit reported cash balance of \$1,863 as of 10/19/2020. RECOMMENDED ACTION: Waive	Member Leppik	To approve the staff recommendation.	A roll call vote was taken. All members voted in the affirmative (Rosen absent).
60th Senate District RPM (20493)	\$1,000 LFF	2020 Pre-general	Party unit changed treasurers in late July but did not immediately notify Board staff. New treasurer was not given copy of party unit's 2020 CFR data or access to party unit's bank account. Report was due 10/26/2020 and no-change statement was filed 11/29/2020 listing cash balance of \$2,140 as of 10/19/2020. RECOMMENDED ACTION: Reduce to \$250	Member Leppik	To approve the staff recommendation.	A roll call vote was taken. All members voted in the affirmative (Rosen absent).
28th Senate District DFL (20719)	\$150 LFF	2020 Pre-general	Treasurer misunderstood due date. Report was due 10/26/2020 and no-change statement was filed 10/29/2020 listing cash balance of \$310. Party unit hasn't reported any financial activity since 2018 aside from payment of LFFs and CPs in 2019. RECOMMENDED ACTION: No action	No motion		

B. Informational items

1. Payment of civil penalty for disclaimer violation

Campaign Committee of Elliott W Engen, \$300

2. Payment of late filing fee for 2020 pre-general report of receipts and expenditures

BAILPAC, \$300
Carpenters Local 930 PAC, \$100
45th Senate District RPM, \$50
Neighbors for Aisha Gomez, \$50
Pile Drivers PAC Fund, \$50
62nd Senate District DFL, \$50

3. Payment of late filing fee for September 2020 report of receipts and expenditures

SEIU Local 26 Political Fund, \$75

4. Payment of late filing fee for 2020 pre-primary report of receipts and expenditures

Larkin Hoffman Political Fund, \$50

5. Payment of late filing fee for original EIS

Antonio Nerios, \$30

LEGAL COUNSEL'S REPORT

Mr. Hartshorn presented members with a legal report that is attached to and made a part of these minutes. Mr. Hartshorn told members that the pleadings in the Brown and NARAL Pro Choice matters were scheduled to go out for service on the day of the Board meeting.

OTHER BUSINESS

There was no other business to report.

EXECUTIVE SESSION

The chair recessed the regular session of the meeting and called to order the executive session. Upon recess of the executive session, the chair had the following to report into regular session.

Findings in the matter of the Board investigation of the Minneapolis DFL Committee

Findings in the matter of the complaint of Rachel Romansky regarding the Perry Nouis for Minnesota committee

Findings in the matter of the complaint of Donavon Indovino Cawley regarding the Vote Duckworth (Zach) committee

APPOINTMENT OF CHAIR AND VICE CHAIR FOR 2021

Mr. Sigurdson reviewed the issues regarding the appointment of the chair and vice chair for 2021.

After discussion, the following motion was made:

Member Flynn's motion: To extend Chair Haugen's term through February of 2021; to elect Vice Chair Swanson as chair for the term of March through December of 2021; and to nominate and elect Member Rashid to serve as vice chair for all of 2021.

Vote on motion: A roll call vote was taken. All members voted in the affirmative.

There being no other business, the meeting was adjourned by the chair.

Respectfully submitted,

Jeff Sigurdson
Executive Director

Attachments:

Memorandum regarding appointment of chair and vice chair for 2021

Executive director's report

Memorandum regarding lobbyist legislative recommendations

Memorandum regarding technical amendments

Legal report

Findings in the matter of the Board investigation of the Minneapolis DFL Committee

Findings in the matter of the complaint of Rachel Romansky regarding the Perry Nouis for Minnesota committee

Findings in the matter of the complaint of Donavon Indovino Cawley regarding the Vote Duckworth (Zach) committee



MINNESOTA

CAMPAIGN FINANCE BOARD

Board Meeting Dates for Calendar Year 2021

Meetings are at **10:00 A.M.** unless otherwise noted.

2021

Wednesday, March 3

Wednesday, April 7

Wednesday, May 5

Wednesday, June 2

Wednesday, July 7

Wednesday, August 4

Wednesday, September 1

Wednesday, October 6

Wednesday, November 3

Wednesday, December 1



MINNESOTA

CAMPAIGN FINANCE BOARD

Date: January 27, 2021

To: Board Members

From: Jeff Sigurdson, Executive Director

Telephone: 651-539-1189

Re: Legislative recommendations

At the January meeting the Board adopted legislative policy recommendations for the lobbying program, and recommendations to resolve technical issues in the campaign finance and economic interest statement (EIS) programs. Member Swanson requested that at this meeting staff bring the legislative policy recommendations that the Board presented to the legislature in 2020 for discussion and possible recommendation to the legislature in 2021. The recommendations from 2020 (minus the technical recommendations adopted last month) are attached for review.

Member Rashid was not present during the last Board discussion on the recommendations, and therefore is not familiar with the relevant issues. To address that problem, and as a refresher for all Board members, this memo provides a brief review of the recommendations' origins, the public comments received in 2020 on the recommendations, and a staff memo from 2019 on express advocacy.

Some of the 2020 policy recommendations have their origins in provisions that were proposed to the legislature in 2018. For example, in 2018 the Board recommended that EIS statements include the financial holdings of the public official's spouse. This recommendation was heard in the House, but ultimately stalled because it did not include domestic partners, and language to resolve that issue to both parties' satisfaction could not be drafted. In 2019 the Board attempted to solve the issue by moving to a standard that would require disclosure of a "beneficial interest." This interest would include a spouse, and any other individual whose financial holdings might directly benefit the public official. The beneficial interest recommendation was not authored in 2019. The recommendation that the EIS program have a two-tiered disclosure system, with the second tier requiring less financial disclosure for public officials who have limited authority, was also presented in 2018. Some legislators told me that they personally supported this idea, but in the end the Board's recommendations on the EIS program did not pass out of committee.¹

¹ In contrast the 2018 recommendations for the campaign finance program passed both bodies easily.

The Board first proposed the campaign finance recommendation to expand independent expenditures to include material that uses words that do not expressly advocate for the election or defeat of a candidate in 2013. A recommendation on this issue has been made every year except in 2017 and 2018. There have been variations on the wording used in the recommendation on independent expenditures, but the basic issue is the same; is the express advocacy standard found in the Supreme Court decision *Buckley v. Valeo* still adequate for Minnesota? The staff memo from Mr. Olson that I mentioned earlier reviews the key court decisions that define what options are available for regulation of political speech made independent of candidates. The public comments from 2020 centered chiefly around this issue. In recent legislative sessions language similar to the Board's recommendation regarding the definition of independent expenditures has been found in bills introduced in both chambers. This year language that would classify communications that do not use words of express advocacy as independent expenditures is found in House File 9.

In 2019 the Board's recommendations (policy and technical) were not introduced as a bill in either body, and with one exception, the recommendations were not incorporated into any other proposed legislation.² In 2020 the pandemic cut short the opportunity to have discussions with legislators about the proposals, but there had been little response to the proposals when the session basically came to an end in March.

Economic Interest Statement Policy Recommendations Overview

- **Establish a two-tiered disclosure system.** The disclosure required for soil and water conservation district supervisors and members of watershed districts and watershed management organizations is excessive given their limited authority. In a two-tiered system, members of these boards and districts would disclose their occupation, sources of compensation and non-homesteaded property owned in the state. The members of these boards and districts would not disclose securities or professional or business categories.
- **Require public and local officials to disclose direct interests in government contracts.** This new disclosure would consist of a listing of any contract, professional license, lease, franchise, or permit issued by a state agency or any political subdivision of the state to the public official as an individual, or to any business in which the public official has an ownership interest of at least 25 percent.
- **Expand EIS disclosure to include beneficial interests that may create a conflict of interest.** The Board believes that the EIS program provides the public with disclosure of assets held directly by an official that may create a conflict of interest when conducting public business. However, the EIS program does not require disclosure of assets owned by another even when those assets will provide direct financial benefit to the public official because of a contract or relationship between the public official and the owner of the asset. To address this gap in disclosure the Board recommends expanding disclosure to include the official's "beneficial interest" in assets owned by another.

² Language similar to the Board's recommendation to modify the definition of express advocacy was added to the House omnibus elections bill. The Senate did not hear any campaign finance or election administration bills in 2019.

The draft statutory language for the recommendations is attached to this memo.

Campaign Finance Program Recommendations Overview

- **Provide regulation of contributions made with bitcoins and other virtual currency.** During 2018 staff received calls from campaign committees asking for guidance on accepting and reporting contributions made with bitcoins and other virtual currencies. Chapter 10A does not provide any guidance on the subject, other than to view the virtual currency as something of value. The Board's proposal will provide a statutory basis for disclosing and regulating the conversion of virtual currency into United States currency.
- **Redefine independent expenditures to include both express advocacy and words that are the functional equivalent.** Under current statute an independent expenditure must use words of express advocacy (vote for, elect, support, cast your ballot for, Smith for House, vote against, defeat, reject, or very similar words) to state support of, or opposition to, a candidate. A communication that avoid words of express advocacy, but which nonetheless has the clear purpose of influencing voting in Minnesota, does not in many cases need to be reported to the Board. The Board proposal expands the definition of independent expenditure to include communications that do not use the eight magic words but could have no reasonable purpose other than to influence voting in Minnesota.

The draft statutory language for the recommendations is attached to this memo.

Attachments

2020 Public comments

2019 Memo on substantial equivalent of express advocacy

Statutory language for EIS and campaign finance policy recommendations



Minnesota Campaign Finance Board
190 Centennial Building
658 Cedar Street
St. Paul, MN 55155-1603

Tuesday, September 24, 2019

Members of the Minnesota Campaign Finance Board,

On behalf of Americans for Prosperity activists across Minnesota, I am writing today in opposition to portions of the proposed and reconsidered legislative recommendations from the Campaign Finance Board. Specifically, we have concerns with the second bullet point on page four, which would redefine “independent expenditure” from the bright line test that is in place today to a more uncertain standard sure to be subject to wide interpretation.

Americans for Prosperity stands firmly in support of the right of all Americans to participate in civic engagement and these provisions would only serve to limit discourse and undermine free speech.

Under current Minnesota law, advocacy groups are governed by an objective, bright-line test (i.e. use of words such as “vote for” or “elect”) in determining what will be subject to reporting requirements. This bill, however, abandons this language for a subjective, overbroad standard that will lead to increased uncertainty. Instead of accepting the risk of a drawn-out legal fight, many organizations will simply choose to stay on the sidelines.

I have attached to this e-mail a letter that we shared with all members of the Legislature as this topic was being debated last session. This letter addresses many other issues that were included in the underlying legislation that are NOT under consideration here today. I am sharing it in order to provide a broader context for our opposition to any attack on Americans’ free speech rights and highlight our fear that these definition changes are only a first step down a very dangerous road toward chilling civil discourse and debate.

It is our hope that the above referenced provisions related to changes to the definition of “independent expenditure” be removed from these legislative recommendations. Thank you for the opportunity to express our concerns, and please don’t hesitate to reach out if you have questions or if we can be of assistance.

Sincerely,

Jason Flohrs
State Director
Americans for Prosperity - Minnesota



Tuesday, April 30, 2019

Key Vote Alert: Vote “No” on SF2227 – Omnibus State Government Finance Bill

Dear Members of the Minnesota House,

On behalf of Americans for Prosperity activists across Minnesota, I am writing today to urge a “No” vote on final passage of SF2227, the Omnibus State Government Finance Bill, which includes provisions that originated in HF2050 that would limit Minnesotans’ free speech rights. Americans for Prosperity stands firmly in support of the right of all Americans to participate in civic engagement and these provisions would only serve to limit discourse and undermine free speech.

As a “Key Vote”, Americans for Prosperity – Minnesota may include this vote in our end-of-session Legislative Scorecard that will be shared with your constituents.

The ability to think, speak, and engage allows all individuals to challenge social, scientific, and political issues that affect their lives and their communities. Free to choose to privately come together, people can join causes they believe in without fear of intervention or retaliation by those in government. This protects all voices, especially the marginalized.

The sections of the bill from HF2050 would chill protected speech by mandating the disclosure of donors who give to organizations to support their general missions. Donors will be deterred from donating to good causes for fear their names may end up on a government registry because those organizations took positions on legislation or issues—positions with which those donors may even disagree. It would create new and burdensome reporting requirements for organizations, regulate a stunningly broad amount of speech, and enable harassment of citizens based on their beliefs.

In addition to our broad opposition to the idea that Americans need to register with the government any time they take advantage of their First Amendment rights, there are numerous specific issues with the proposed language:

- On changing the definition of “express advocating”: Under current Minnesota law, advocacy groups are governed by an objective, bright-line test (i.e. use of words such as “vote for” or “elect”) in determining what will be subject to reporting requirements. This bill, however, abandons this language for a subjective, overbroad standard that will lead to increased uncertainty. Instead of accepting the risk of a drawn-out legal fight, many organizations will simply choose to stay on the sidelines.
- On requiring binary characterization of officeholders in electioneering communications: This provision forces speakers to adopt an intent for their communication that they may not have, making any communication in which the focus is clearly on an issue or piece of legislation, but may mention an officeholder, inherently political. In effect, an organization simply engaging on a piece of legislation will be forced to declare support or opposition to a certain lawmaker or candidate. For example, an organization dedicated to increasing literacy that runs a tv ad asking parents to contact their representative and ask her to vote “yes” on a school funding bill would be forced to take a position on that representative by declaring their communication “positive” or “negative” towards her—even when their speech was clearly focused on the issue of funding. Speakers have the right to determine the intent of their own speech without government putting words in their mouth or requiring burdensome paperwork or registration.

Through broad-based grassroots outreach, *Americans for Prosperity (AFP)* is driving long-term solutions to the country’s biggest problems. AFP activists engage friends and neighbors on key issues and encourage them to take an active role in building a culture of mutual benefit, where people succeed by helping one another. AFP recruits and unites activists in 35 states behind a common goal of advancing policies that will help people improve their lives.

- On electioneering communication “targeting”: This provision regulates all mediums of communication, inevitably sweeping in communications that are never intended for election activity. This broad definition would subject a book publisher or blogger to report their activity to the state if their book or post merely mentioned a candidate or officeholder—such as a book or post on how a bill becomes law that mentions the current Governor – and happened to be distributed close to an election and could reach a relatively small number of people in the state.

The bottom line: transparency is good for government accountability and oversight, but individuals have a right to privacy.

Just as Americans have the right to cast ballots in private, we have the right to support causes, join groups and make donations without being monitored by the government. Seventy-three percent of registered voters agree that the government has no right to know what groups or causes they support. We should hold our government accountable without violating citizens’ privacy or burdening civic groups working to improve the lives of their fellow Americans.

History shows these freedoms protect minority voices – those fighting against injustices entrenched in the status quo. There’s a long tradition in the U.S., going all the way back to our founding, of anonymous philanthropy as well as anonymous writing on matters of public interest. The advancement of civil rights was made possible, in part, by the ability of individuals with views that ran counter to the status quo to privately join together. When Alabama tried to force the NAACP to reveal its member lists during Jim Crow, the Supreme Court held that the First Amendment protects private associations from being exposed to threats, intimidation and violence. Even today, people who have made even modest donations to groups that expressed unpopular views have lost their jobs and faced harassment when their affiliations were leaked.

Those in power shouldn’t force individuals to register their beliefs, their donations, or their associations. Our society is enriched by the civic engagement of diverse organizations clarifying and amplifying their supporters’ voices. Yet too often, these types of requirements are designed to make it harder to critique those in power and shield the political class from the voices of everyday citizens who want to make their viewpoints known to their elected officials. While the lobbyists and the well- connected will still find a way to play their inside game, everyday citizens who want to make their voices heard on issues they care about would have their voices taken away.

Thank you for the opportunity to share our opposition to the above-mentioned provisions contained within the Omnibus State Government Finance Bill. Please don’t hesitate to reach out if you have questions, need more information, or if you would like to discuss the issue further.

Sincerely,



Jason Flohrs
State Director
Americans for Prosperity - Minnesota

From: [Ron Bardal](#)
To: [Engelhardt, Megan \(CFB\)](#)
Cc: [George Beck](#)
Subject: FW: Campaign Finance and Public Disclosure Board requests comments regarding legislative proposals
Date: Monday, September 09, 2019 10:40:42 PM

Dear Asst. Director Engelhardt:

I like the 2019 Legislative Recommendations you drafted for Governor Walz. I especially like your intention to require identification of campaign contribution sources. Dark money is a hazard to our election system because the contributor cannot be identified and held accountable for misleading and false publicity about a candidate. Our citizens need honest leaders in Washington and state houses. But, in today's society frequent repetition of falsehoods, funded by dark money, is soon taken as fact, so honest candidates are defeated through slander.

I believe one key action to achieve fair elections is to overturn the *Citizens United Vs. FEC* 2010 decision of the Supreme Court. Corporations are not people though SCOTUS claimed so in its 2010 ruling. Corporations can spend multi-millions to influence an election, but real people cannot compete financially to be heard. Under the *Citizens United* decision we can no longer be what Abraham Lincoln said we are – a government of the people, by the people, and for the people.

I am Secretary of Minnesota Citizens for Clean Elections (MnCCCE). We are a non-profit, non-partisan 501-c-3 organization working to get dark money and big money out of politics so we can have equitable campaign financing and clean and fair elections.

Ronald Bardal

1783 19th Terrace NW, New Brighton, MN 55112
651-633-9238

From: George Beck [mailto:georgeabeck@aol.com]
Sent: Monday, September 09, 2019 4:23 PM
To: Abelladonna@commoncause.org; argetsingerlynn@gmail.com; rbardal@hotmail.com

-----Original Message-----

From: Board Information Distribution List <campaign.board@state.mn.us>
To: Board Information Distribution List <campaign.board@state.mn.us>
Sent: Fri, Sep 6, 2019 4:02 pm
Subject: Campaign Finance and Public Disclosure Board requests comments regarding legislative proposals

TO: All Interested Persons

The Campaign Finance and Public Disclosure Board is seeking comments from the public regarding possible legislative recommendations for 2020. The Board is currently reconsidering the legislative

September 24, 2019

Megan Engelhardt, Assistant Executive Director
190 Centennial Building
658 Cedar Street
St. Paul, MN 55155-1603
Megan.Engelhardt@state.mn.us

Re: Legislative Proposals for 2020

Dear Ms. Engelhardt,

Thank you for the opportunity for the public to comment on the Board's possible legislative recommendations for 2020. The League of Women Votes Minnesota (LWVMN) knows that the Board handles many important issues ranging from economic interest statements to inter-committee contributions to intraparty transfers. However, LWVMN would like to bring the Board's attention to an issue that LWVMN believes is one of the most important and urgent issues that need addressed.

LWVMN believes that the state's campaign finance system must ensure transparency and the public's right to know who is using money to influence elections. To pursue this goal, LWVMN believes that the Board should continue its efforts to clarify the definition of "independent expenditure."

In the Board's letter to the governor and legislative leaders on February 19, 2019, the Board described several recommendations. In that letter, the Board wrote, "there is a critical gap in the definition of what constitutes an independent expenditure to influence the nomination or election of a candidate." We agree with the Board's position that this gap exists and that it is a critical one.

The Board continued, "This gap defeats the Board's goal of providing the public with accurate information on how much money is spent in Minnesota to influence elections, and raises questions regarding the integrity and fairness of [Minnesota's campaign finance reporting]." Again, we agree that this gap defeats the Board's purpose. But we would even go so far to say that this gap does not just raise questions, but *actively undermines* the integrity of Minnesota's campaign finance reporting.

To fix that gap, the Board recommended that the definition of "independent expenditure" be updated "to include both express advocacy and words that are the functional equivalent." As the Board notes, the United States Supreme Court has used the functional equivalent standard, and the standard has survived constitutional

scrutiny. And while the functional equivalent standard ensures accurate disclosures of campaign expenditures, it avoids overregulating other forms of nonpartisan electoral activity that do not advocate for or against a party or candidate. It strikes a crucial balance of ensuring the public's right to know who is using money to influence elections, while also ensuring voters can access sufficient information about the electoral process.

We appreciate that this proposal has been recommended in the past. LWVMN asks that it remain a high—if not the highest—priority for the Board during the 2020 legislative session.

Sincerely,

A handwritten signature in black ink, appearing to be 'NH', followed by a long horizontal line extending to the right.

Nick Harper, Civic Engagement Director
LWVMN

From: [clean elections](#)
To: [Engelhardt, Megan \(CFB\)](#)
Cc: [Bardal, Ron](#); [Beck, George](#); [Connie Lewis](#); [David Miller](#); [Jim Herrick](#); [Norrie Thomas](#); [Peterson, Ken](#); [Ruth Cain](#); [Skrentner, Lonni](#); [Todd Otis](#)
Subject: Legislative Recommendations
Date: Friday, September 20, 2019 4:10:18 PM
Attachments: [Legislative Recommendations to the Minnesota Campaign Finance Board - 2020.docx](#)

Dear Assistant Executive Director Engelhardt:

Thanks you for the opportunity to comment on recommendations that the Board will make to the legislature for its 2020 session.

Our suggestions are attached. Please contact me if you have any questions.

George Beck
Chair
Minnesota Citizens for Clean Elections



2020 Legislative Recommendations to the Minnesota Campaign Finance Board

1. We continue to strongly support the Board's recommendation that the definition of "expressly advocating" include a communication that is suggestive of only one meaning and where reasonable minds could not differ that it is meant to elect or defeat a candidate. The present definition allows for anonymous contributions that can hide foreign influence and deceive voters.
2. The *Citizens United* decision has permitted unlimited contributions to campaigns in an attempt to influence decisions by elected officials. The Board should ask the legislature to recommend to Congress that it adopt an amendment to the Constitution that reverses this regressive decision, as 20 other states have done.
3. The Board should recommend that public financing of political campaigns in Minnesota be strengthened in order to lessen the impact of special interest contributions and to permit those without wealth to run for office. The \$50 refund and the public subsidy should be increased or a state match for citizen contributions (e.g. 6 to 1) could be adopted.
4. Direct contributions from lobbyists to candidates or elected officials should be prohibited and the bundling of contributions should not be allowed. Lobbyists work closely with legislators and these actions put undue and improper influence on our elected officials.
5. The Board should recommend that our electorate be expanded to the greatest extent possible in order to permit a true democracy. Automatic voter registration should be available, voting rights of citizens released from prison should be restored and weekend voting should be considered.

Date: January 18, 2019

To: Jeff Sigurdson, Executive Director

From: Andrew Olson, Legal/Management Analyst

Telephone: 651-539-1190

Re: Legislative Recommendations Regarding the Substantial Equivalent of Express Advocacy

Genesis of Federal Restrictions on Independent Expenditures

The Federal Election Campaign Act (FECA) Amendments of 1974 placed a dollar limitation on the amount a person could spend on expenditures “relative to a clearly identified candidate.” Such expenditures came to be labeled independent expenditures. The phrase “clearly identified” included the presence of the candidate’s name or photograph or any other unambiguous reference to the identity of the candidate.

The Birth of Express Advocacy and Magic Words

In *Buckley v. Valeo*, the U.S. Supreme Court hypothesized that a dollar limit on independent expenditures would, in order to survive a challenge on vagueness grounds, need to be limited to expenditures for communications containing “express words of advocacy of election or defeat, such as ‘vote for,’ ‘elect,’ ‘support,’ ‘cast your ballot for,’ ‘Smith for Congress,’ ‘vote against,’ ‘defeat,’ ‘reject.’”¹ That construction of the statute ultimately was not relevant to the Court’s decision, however, as it struck down the expenditure limit in question in its entirety on the basis that placing a ceiling on independent expenditures did not serve the interest of preventing the reality or perception of corruption and could not be justified as an attempt to equalize the electoral playing field. Nonetheless, the words articulated in footnote 52 of the decision came to be known as the magic words, which many have argued must be present in order for a communication to be express advocacy and thereby constitute an independent expenditure.² The phrases “independent expenditure” and “expressly advocating” were included within amendments to the FECA in 1976.

Express Advocacy Absent the Magic Words

To the best of my knowledge, only communications in which one of the magic words was present were construed to be independent expenditures until *Fed. Election Comm’n v. Furgatch*, a case decided by the Ninth Circuit Court of Appeals in 1987.³ In that case, the court forcefully argued that requiring the presence of the magic words in order for express advocacy to exist would come “at the expense of eviscerating the Federal Election Campaign Act.” The court “conclude[d] that speech need not include any of the words listed in *Buckley* to be express

¹ *Buckley v. Valeo*, [424 U.S. 1, 44](#) (1976).

² This argument was expressly rejected by the Court in 2003 in *McConnell v. Fed. Election Comm’n*, [540 U.S. 93, 103](#), (2003).

³ *Fed. Election Comm’n v. Furgatch*, [807 F.2d 857](#) (9th Cir. 1987)

advocacy under the Act, but it must, when read as a whole, and with limited reference to external events, be susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate.” The reference to external events is explained in the court’s opinion as the appropriate and often necessary consideration of the context in which the speech occurs, such as the proximity to an election and whether the speech could rationally be considered to ask listeners to take any action other than voting for or not voting for a specific candidate.

Genesis of the Functional Equivalent of Express Advocacy

References to the “functional equivalent” of express advocacy likely began with a federal district court case in 1999 that cited *Furgatch* in support of the conclusion that express advocacy is not limited to communications containing *Buckley’s* magic words.⁴ The U.S. Supreme Court discussed “the functional equivalent of express advocacy” and *Buckley’s* magic words in a 2003 case dealing with electioneering communications.⁵ Independent expenditures are similar and the definitions often overlap, but electioneering communications may call for some action that does not involve voting, may or may not contain any of the magic words, and must occur shortly before an election. Because electioneering communications may include pure issue advocacy, limits on those communications are treated more critically by courts than restrictions on independent expenditures, which have typically been defined to only include express advocacy. In *McConnell v. Fed. Election Comm’n*, the Court stated that:

[t]he concept of express advocacy and the concomitant class of magic words were born of an effort to avoid constitutional infirmities. We have long ‘rigidly adhered’ to the tenet ‘never to formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied,’ for ‘[t]he nature of judicial review constrains us to consider the case that is actually before us.’ Consistent with that principle, our decisions in *Buckley* and *MCFL* were specific to the statutory language before us; they in no way drew a constitutional boundary that forever fixed the permissible scope of provisions regulating campaign-related speech.

Nor are we persuaded, independent of our precedents, that the First Amendment erects a rigid barrier between express advocacy and so-called issue advocacy. That notion cannot be squared with our longstanding recognition that the presence or absence of magic words cannot meaningfully distinguish electioneering speech from a true issue ad. Indeed, the unmistakable lesson from the record in this litigation, as all three judges on the District Court agreed, is that *Buckley’s* magic-words requirement is functionally meaningless. Not only can advertisers easily evade the line by eschewing the use of magic words, but they would seldom choose to use such words even if permitted. And although the resulting advertisements do not urge the viewer to vote for or against a candidate in so many words, they are no less clearly intended to influence the

⁴ *Fed. Election Comm’n v. Freedom’s Heritage Forum*, No. CIV.A.3:98CV-549-S, [1999 WL 33756662](#), at *4 (W.D. Ky. Sept. 29, 1999).

⁵ *McConnell v. Fed. Election Comm’n*, at 103.

election. *Buckley's* express advocacy line, in short, has not aided the legislative effort to combat real or apparent corruption, and Congress enacted BCRA to correct the flaws it found in the existing system.⁶

The Test for Functional Equivalence Established in *WRTL II*

The U.S. Supreme Court considered the issue again in 2007 when deciding *Fed. Election Comm'n v. Wisconsin Right To Life, Inc. (WRTL II)*.⁷ The case involved an as-applied challenge to a statute that prohibited business corporations, labor unions, and any group that accepted contributions from business corporations or labor unions from using general treasury funds to pay for electioneering communications. The plaintiff was a 501(c)(4) that ran radio ads stating:

A group of Senators is using the filibuster delay tactic to block federal judicial nominees from a simple 'yes' or 'no' vote. So qualified candidates don't get a chance to serve. It's politics at work, causing gridlock and backing up some of our courts to a state of emergency. Contact Senators Feingold and Kohl and tell them to oppose the filibuster.⁸

The Court found the statute to be unconstitutional as applied to that ad on First Amendment grounds. In doing so, the court established a test that has formed the basis of subsequent case law regarding what is an independent expenditure, the FEC's definition of "expressly advocating,"⁹ and the statutes and regulations of several states regarding independent expenditures.¹⁰ The Court's test holds that "an ad is the functional equivalent of express advocacy only if the ad is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate."¹¹ The Court cautioned that in applying the test, regulators must not look to the speaker's intent.

The test to distinguish constitutionally protected political speech from speech that BCRA may proscribe should provide a safe harbor for those who wish to exercise First Amendment rights. The test should also 'reflec[t] our profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open.' A test turning on the intent of the speaker does not remotely fit the bill.

Far from serving the values the First Amendment is meant to protect, an intent-based test would chill core political speech by opening the door to a trial on every ad within the terms of § 203, on the theory that the speaker actually intended to affect an election, no matter how compelling the indications that the ad concerned a pending legislative or policy issue. No reasonable speaker would choose to run an ad covered by BCRA if its only defense to a criminal

⁶ *McConnell* at 192-94 (internal citations and quotation marks omitted).

⁷ *Fed. Election Comm'n v. Wisconsin Right To Life, Inc.*, [551 U.S. 449](#) (2007).

⁸ *WRTL II*, at 458-59.

⁹ [11 CFR § 100.22](#).

¹⁰ See, e.g., [S.D. Codified Laws § 12-27-1 \(9\)](#); [W. Va. Code Ann. § 3-8-1a \(13\)](#); [Code Me. R. tit. 94-270 Ch. 1, § 10 \(2\) \(B\)](#).

¹¹ *WRTL II*, at 469-70.

prosecution would be that its motives were pure. An intent-based standard 'blankets with uncertainty whatever may be said,' and 'offers no security for free discussion.'¹²

It should be noted that the Court in *McConnell* was applying "closely drawn" scrutiny, which is essentially the same as exacting or intermediate scrutiny, concluding that the ban on the use of corporate or union general treasury funds to pay for independent expenditures was not an outright prohibition because "[t]he ability to form and administer separate segregated funds . . . has provided corporations and unions with a constitutionally sufficient opportunity to engage in express advocacy."¹³ The Court in *WRTL II*, however, applied strict scrutiny, perhaps because the vast majority of contributions received by the plaintiff were from business corporations, thus the funds could not be funneled (at that time) into a PAC and therefore, as applied to the plaintiff, the challenged statute functioned as an outright prohibition. A statute merely requiring disclosure of those underwriting independent expenditures as opposed to prohibiting corporations or unions from engaging in such expenditures would most likely be met with exacting or intermediate scrutiny, as opposed to strict scrutiny.¹⁴

Impact of *Citizens United* on the Test for Functional Equivalence

In *Citizens United v. Fed. Election Comm'n*, the Court used the test adopted in *WRTL II* in finding that the plaintiff's film constituted express advocacy. The Court went so far as to "reject *Citizens United*'s contention that the disclosure requirements must be limited to speech that is the functional equivalent of express advocacy."¹⁵ The Court noted that because disclosure requirements are a less restrictive means of regulating speech, they need not be limited to express advocacy, despite *WRTL II*, which limited an outright ban on the use of general treasury funds by corporations and unions to express advocacy or its functional equivalent.

The Court went on to discuss the electorate's informational interest. *Buckley* described that interest as the desire for "information as to where political campaign money comes from and how it is spent by the candidate in order to aid the voters in evaluating those who seek federal office."¹⁶ *McConnell* explicitly stated that the electorate's informational interest applies to independent expenditures as well as spending by candidates.¹⁷ The Court in *Citizens United* went even further in discussing a disclosure requirement applicable to the film produced by the plaintiff, stating that:

[e]ven if the ads only pertain to a commercial transaction, the public has an interest in knowing who is speaking about a candidate shortly before an election. Because the informational interest alone is sufficient to justify application of §

¹² *WRTL II*, at 467-68 (internal citations and quotation marks omitted).

¹³ *McConnell* at 203. This option is sometimes referenced as the MCFL exception, named after *Fed. Election Comm'n v. Massachusetts Citizens for Life, Inc.*, [479 U.S. 238](#) (1986).

¹⁴ See, e.g., *Doe v. Reed*, [561 U.S. 186, 196](#) (2010); *Citizens United v. Fed. Election Comm'n*, [558 U.S. 310, 366-67](#) (2010).

¹⁵ *Citizens United*, at 369.

¹⁶ *Buckley*, at 66-67.

¹⁷ *McConnell*, at 200.

201 to these ads, it is not necessary to consider the Government's other asserted interests.¹⁸

The Court in *Citizens United* invalidated, on its face, a prohibition on political speech by corporations and unions. In doing so, it decried the FEC's adoption of a regulation that enumerated multiple factors the FEC would consider in determining whether an electioneering communication constituted express advocacy. The Court stated that the regulation functioned as a prior restraint on speech because, "given the complexity of the regulations and the deference courts show to administrative determinations, a speaker who wants to avoid threats of criminal liability and the heavy costs of defending against FEC enforcement must ask a governmental agency for prior permission to speak."¹⁹ However, that language was used in describing a prohibition on speech, subject to strict scrutiny, not a disclosure requirement, subject to exacting or intermediate scrutiny. Similar language was not used by the majority when discussing the disclosure requirement challenged by the plaintiff. In fact, the Court explicitly said that disclosure requirements may even extend beyond express advocacy, so long as there is a substantial relation between those requirements and a sufficiently important governmental interest.

The Court did note the possibility of a successful as-applied challenge to a disclosure requirement on the basis that the speaker's donors "would face threats, harassment, or reprisals if their names were disclosed."²⁰ However, the Court stated, as it did in *Doe v. Reed*, that a party challenging a disclosure requirement on that basis must provide evidence that its donors would face such a backlash.

Language Used to Define Express Advocacy and its Functional Equivalent

The federal government and states have used different approaches to define independent expenditures in accordance with *Buckley* and *WRTL II*. Some offer a definition or other language explaining what constitutes the functional equivalent of express advocacy. Some do not reference functional equivalence and instead include communications lacking the magic words within the definition of express advocacy directly by using language similar to that used by other jurisdictions to define its functional equivalent. Others still limit express advocacy to communications containing the magic words.

Case law addressing the issue makes it clear that the language must create a standard that 1) creates an objective test that looks to the perception of the audience as opposed to the intent of the speaker; and 2) is reasonably clear. Because the standard adopted by the Court in *WRTL II* has been extensively litigated and the FEC's definition of "expressly advocating" withstood review in *Citizens United*, there may be an advantage in using language similar to one or the other if the Board decides to go forward with a recommendation to expand the definition of an independent expenditure under Chapter 10A.

¹⁸ *Citizens United*, at 369.

¹⁹ *Citizens United*, at 335.

²⁰ *Citizens United*, at 370.

FEC Definition

Within its regulations, the FEC only uses the term functional equivalent when defining coordinated communications, stating that “a communication is the functional equivalent of express advocacy if it is susceptible of no reasonable interpretation other than as an appeal to vote for or against a clearly identified Federal candidate.”²¹ Although it doesn’t use the term functional equivalent in reference to independent expenditures, the FEC defines “expressly advocating” to include any communication, “which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate(s),” or any communication that:

[w]hen taken as a whole and with limited reference to external events, such as the proximity to the election, could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s) because—

- (1) The electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and
- (2) Reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s) or encourages some other kind of action.²²

State Definitions

Rhode Island defines functional equivalence to include communications that “can only be interpreted by a reasonable person as advocating the election, passage, or defeat of a candidate or referendum, taking into account whether the communication mentions a candidate or referendum and takes a position on a candidate's character, qualifications, or fitness for office.”²³

New Hampshire defines functional equivalence to include any communication that “when taken as a whole . . . is likely to be interpreted by a reasonable person only as advocating the election or defeat of a clearly identified candidate or candidates or the success or defeat of a measure or measures, taking into account whether the communication involved mentions a candidacy or a political party, or takes a position on a candidate's character, qualifications, or fitness for office.”²⁴

California does not use the term functional equivalent and instead defines express advocacy to include any communication that:

²¹ [11 CFR § 109.21 \(c\) \(5\)](#).

²² [11 CFR § 100.22](#).

²³ [17 R.I. Gen. Laws Ann. § 17-25-3 \(17\)](#).

²⁴ [N.H. Rev. Stat. Ann. § 664:2 \(XXII\)](#).

is not susceptible of any reasonable interpretation other than as an appeal to vote for or against a specific candidate or measure. A communication is not susceptible of any reasonable interpretation other than as an appeal to vote for or against a specific candidate or measure when, taken as a whole, it could only be interpreted by a reasonable person as containing an appeal to vote for or against a specific candidate or measure because of both of the following:

- (i) The electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning.
- (ii) Reasonable minds could not differ as to whether it encourages a vote for or against a clearly identified candidate or measure, or encourages some other kind of action on a legislative, executive, or judicial matter or issue.²⁵

Likewise, Nevada defines express advocacy to include any communication that:

taken as a whole, is susceptible to no other reasonable interpretation other than as an appeal to vote for or against a clearly identified candidate or group of candidates or a question or group of questions on the ballot at a primary election, general election or special election. A communication does not have to include the words “vote for,” “vote against,” “elect,” “support” or other similar language to be considered a communication that expressly advocates the passage or defeat of a candidate or a question.²⁶

West Virginia also does not use the term functional equivalent and instead simply defines express advocacy to include any communication that “[i]s susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.”²⁷ Maine uses a virtually identical definition.²⁸ Similarly, Alaska defines an “express communication” to include any “communication that, when read as a whole and with limited reference to outside events, is susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate.”²⁹ South Dakota does not use the term functional equivalent, and instead defines express advocacy to include any communication that:

[i]f taken as a whole and with limited reference to external events, such as the proximity to the election, may only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidates or public office holders, or the placement of a ballot question on the ballot or the adoption or defeat of any ballot question because:

- (i) The electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and
- (ii) Reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidates or public office holders, or the placement of a ballot question on the ballot or the adoption

²⁵ [Cal. Gov't Code § 82025 \(c\) \(2\) \(A\).](#)

²⁶ [Nev. Rev. Stat. Ann. § 294A.0025.](#)

²⁷ [W. Va. Code Ann. § 3-8-1a \(13\) \(C\).](#)

²⁸ [Code Me. R. tit. 94-270 Ch. 1, § 10 \(2\) \(B\).](#)

²⁹ [Alaska Stat. Ann. § 15.13.400 \(7\).](#)

or defeat of any ballot question or encourages some other kind of action.³⁰

Arizona also does not use the term functional equivalent, and instead defines express advocacy to include a communication containing “a campaign slogan or words that in context can have no reasonable meaning other than to advocate the election or defeat of one or more clearly identified candidates,” or:

a general public communication, such as in a broadcast medium, newspaper, magazine, billboard or direct mailer referring to one or more clearly identified candidates and targeted to the electorate of that candidate(s) that in context can have no reasonable meaning other than to advocate the election or defeat of the candidate(s), as evidenced by factors such as the presentation of the candidate(s) in a favorable or unfavorable light, the targeting, placement or timing of the communication or the inclusion of statements of the candidate(s) or opponents.³¹

Reasonable Minds or Person Standard

There is little case law containing any in-depth discussion of what a reasonable person is in terms of interpreting a definition of express advocacy. Courts have generally looked at the content and context of the speech and after explaining the facts, have concluded that it is not reasonable to interpret the speech as something other than express advocacy, or vice versa. In *Citizens United*, the U.S. Supreme Court found that the film produced by the plaintiffs was “the functional equivalent of express advocacy,” noting that “there is no reasonable interpretation of *Hillary* other than as an appeal to vote against Senator Clinton.”³² The Court rejected the argument that the film was merely a documentary, noting that “[t]he movie’s consistent emphasis is on the relevance of these events to Senator Clinton’s candidacy for President.”³³

In 2014 the Arizona Court of Appeals considered an attack ad ran shortly before a general election, discussing a candidate for Attorney General. The add stated the candidate had “voted against tougher penalties for statutory rape” and allowed a teacher to return to teaching after being caught “looking at child pornography on a school computer,” and urged viewers to “tell Superintendent Horne to protect children, not people who harm them.”³⁴ The court easily concluded that “the only reasonable purpose for running such an advertisement immediately before the election was to advocate Horne’s defeat as candidate for Attorney General.”³⁵ In doing so, the court considered “the presentation of the candidate in an unfavorable light and the targeting, placement, and timing of the communication.”³⁶

³⁰ [S.D. Codified Laws § 12-27-1 \(9\)](#).

³¹ [Ariz. Rev. Stat. Ann. § 16-901.01](#).

³² *Citizens United*, at 326.

³³ *Citizens United*, at 325.

³⁴ *Comm. for Justice & Fairness v. Arizona Sec’y of State’s Office*, [332 P.3d 94, 96](#) (Ct. App. 2014)

³⁵ *Comm. for Justice & Fairness*, at 102.

³⁶ *Comm. for Justice & Fairness*, at 102.

Conclusion

If the Board decides to recommend an expanded definition of express advocacy to include a functional equivalent, then that definition should include an objective test. The reasonable person standard articulated in *WRTL II* and the FEC's definition of "expressly advocating" has been successfully adopted by many states as the test for communications that have the purpose of supporting or defeating a clearly identified candidate.

Economic interest statement program, policy proposals

10A.01 DEFINITIONS

* * * *

Subd. 7e. **Beneficial interest.** “Beneficial interest” means the right, or reasonable expectation of the right to the possession of, use of, or direct financial benefit from an asset owned by another due to a contract or relationship with the owner of the asset.

10A.09 STATEMENTS OF ECONOMIC INTEREST

* * * *

Subd. 5. Form; general requirements. (a) A statement of economic interest required by this section must be on a form prescribed by the board. Except as provided in subdivision 5a, ~~t~~The individual filing must provide the following information:

(1) name, address, occupation, and principal place of business;

(2) the name of each associated business and the nature of that association including any associated business in which the individual has a beneficial interest;

(3) a listing of all real property within the state, excluding homestead property, in which the individual holds: (i) a fee simple interest, a beneficial interest, a mortgage, a contract for deed as buyer or seller, or an option to buy, whether direct or indirect, if the interest is valued in excess of \$2,500; or (ii) an option to buy, if the property has a fair market value of more than \$50,000;

(4) a listing of all real property within the state in which a partnership of which the individual is a member holds: (i) a fee simple interest, a mortgage, a contract for deed as buyer or seller, or an option to buy, whether direct or indirect, if the individual's share of the partnership interest is valued in excess of \$2,500; or (ii) an option to buy, if the property has a fair market value of more than \$50,000. A listing under this clause or clause (3) must indicate the street address and the municipality or the section, township, range and approximate acreage, whichever applies, and the county in which the property is located;

(5) a listing of any investments, ownership, or interests in property connected with pari-mutuel horse racing in the United States and Canada, including a racehorse, in which the individual directly or indirectly holds a partial or full interest or an immediate family member holds a partial or full interest;

(6) a listing of the principal business or professional activity category of each business from which the individual receives more than \$250 in any month during the reporting period as an employee, if the individual has an ownership interest of 25 percent or more in the business;

(7) a listing of each principal business or professional activity category from which the individual received compensation of more than \$2,500 in the past 12 months as an independent contractor; ~~and~~

(8) a listing of the full name of each security with a value of more than \$10,000 owned in part or in full by the individual, or in which the individual has a beneficial interest, at any time during the reporting period; and

(9) a listing of any contract, professional license, lease, franchise, or professional permit that meets the following criteria:

(i) it is held by the individual or any business in which the individual has an ownership interest of 25 percent or more; and

(ii) it is entered into with or issued by any state department or agency listed in section 15.01 or 15.06 or any political subdivision of the state.

Subd. 5a. Form; exception for certain officials. (a) This subdivision applies to the following individuals:

(1) a supervisor of a soil and water conservation district;

(2) a manager of a watershed district; and

(3) a member of a watershed management organization as defined under section 103B.205, subdivision 13.

(b) Notwithstanding subdivision 5, paragraph (a), an individual listed in subdivision 5a, paragraph (a), must provide only the information listed below on a statement of economic interest:

(1) the individual's name, address, occupation, and principal place of business;

(2) a listing of any association, corporation, partnership, limited liability company, limited liability partnership, or other organized legal entity from which the individual receives compensation in excess of \$250, except for actual and reasonable expenses, in any month during the reporting period as a director, officer, owner, member, partner, employer, or employee;

(3) a listing of all real property within the state, excluding homestead property, in which the individual holds: (i) a fee simple interest, a mortgage, a contract for deed as buyer or seller, or an option to buy, whether direct or indirect, if the interest is valued in excess of \$2,500; or (ii) an option to buy, if the property has a fair market value of more than \$50,000; and

(4) a listing of all real property within the state in which a partnership of which the individual is a member holds: (i) a fee simple interest, a mortgage, a contract for deed as buyer or seller, or an option to buy, whether direct or indirect, if the individual's share of the partnership interest is valued in excess of \$2,500; or (ii) an option to buy, if the property has a fair market value of more than \$50,000. A listing under this clause or clause (3) must indicate the street address and the municipality or the section, township, range and approximate acreage, whichever applies, and the county in which the property is located.

(c) If an individual listed in subdivision 5a, paragraph (a), also holds a public official position that is not listed in subdivision 5a, paragraph (a), the individual must file a statement of economic interest that includes the information specified in subdivision 5, paragraph (a).

Campaign finance program, policy proposals

10A.01 DEFINITIONS

* * * *

Subdivision 16a. **Expressly advocating.** “Expressly advocating” means:

(1) that a communication clearly identifies a candidate and uses words or phrases of express advocacy; or

(2) when taken as a whole and with limited reference to external events could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s) because (1) the electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and (2) reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s).

* * * *

Subd. 37. **Virtual currency.** (a) “Virtual currency” means an intangible representation of value in units that can only be transmitted electronically and function as a medium of exchange, units of account, or a store of value.

(b) Virtual currency includes cryptocurrencies. Virtual currency does not include currencies issued by a government.

10A.15 CONTRIBUTIONS

* * * *

Subd. 8. **Virtual currency contributions.** (a) A principal campaign committee, political committee, political fund, or party unit may accept a donation in kind in the form of virtual currency. The value of donated virtual currency is its fair market value at the time it is donated. The recipient of a virtual currency contribution must sell the virtual currency in exchange for United States currency within five business days after receipt.

(b) Any increase in the value of donated virtual currency after its donation, but before its conversion to United States currency, must be reported as a receipt that is not a contribution pursuant to section 10A.20, subdivision 3. Any decrease in the value of donated virtual currency after its donation, but before its conversion to United States currency, must be reported as an expenditure pursuant to section 10A.20, subdivision 3.

(c) A principal campaign committee, political committee, political fund, or party unit may not purchase goods or services with virtual currency.



MINNESOTA CAMPAIGN FINANCE BOARD

Date: January 27, 2021

To: Board members

From: Andrew Olson, Legal/Management Analyst

Telephone: 651-539-1190

Re: Americans for Prosperity Foundation v. Becerra, [903 F.3d 1000](#) (9th Cir. 2018)

California's Requirement that 501(c)(3) Organizations Provide List of Large Donors

Most 501(c) organizations are required to file Form 990 and its accompanying schedules¹ annually with the Internal Revenue Service (IRS). Those that receive contributions totaling at least \$5,000 from a single contributor typically must file Schedule B.² That schedule generally consists of a list with the name and address of, and amount contributed by, each person that contributed at least \$5,000. However, an organization that satisfies the IRS's 1/3 public support test³ is only required to include each contributor who gave more than \$5,000 and whose contributions comprised more than 2% of the organization's total contributions.

California requires charitable organizations that solicit contributions in California to register with the state attorney general⁴ and generally requires them to annually file with the state a copy of the Form 990 they filed with the IRS, including Schedule B.⁵ The Schedule Bs filed by each charitable organization were generally shielded from public disclosure pursuant to an internal policy of California's Office of the Attorney General and that policy was codified as a regulation in 2016.⁶ Some 501(c)(3) organizations declined to provide their Schedule Bs, withheld certain pages, or redacted them to exclude donor names and addresses and that practice continued without enforcement action being taken for a decade.⁷ Starting in 2010 California's Office of the

¹ irs.gov/forms-pubs/about-form-990

² irs.gov/pub/irs-pdf/f990ezb.pdf

³ Generally an organization satisfies the 1/3 public support test if at least 1/3 of the value of its contributions is comprised of contributions given by governmental units or public charities and contributions given by contributors who each gave less than 2% of the organization's total support.

⁴ See *Cal. Gov't Code § 12580 et seq.* and *Cal. Code Regs. tit. 11, § 300 et seq.*

⁵ *Cal. Code Regs. tit. 11, § 301.*

⁶ *Americans for Prosperity Found. v. Becerra and Thomas More Law Center v. Becerra, Combined Brief in Opposition to Petitions for Writs of Certiorari 4*; *Cal. Code Regs. tit. 11, § 310(b).*

⁷ *Ctr. for Competitive Politics v. Harris, 784 F.3d 1307, 1311 (9th Cir. 2015)*, *cert. denied* 577 U.S. 975 (2015); *Americans for Prosperity Found. v. Harris, 182 F. Supp. 3d 1049, 1052 (C.D. Cal. 2016)*, *rev'd and vacated sub nom. Americans for Prosperity Found. v. Becerra, 903 F.3d 1000 (9th Cir. 2018).*

Attorney General gradually began demanding that 501(c)(3) organizations provide unredacted copies of their schedule Bs.⁸

Federal District Court and Ninth Circuit Court of Appeals Decisions

In March 2014 a 501(c)(3) organization, the Center for Competitive Politics (CCP), filed a lawsuit in federal court challenging on its face the requirement to provide an unredacted Schedule B, asserting that the requirement is preempted by federal law and violates the First Amendment's guarantee of freedom of association. In May 2014 a federal district court denied the CCP's motion for a preliminary injunction and a year later a Ninth Circuit Court of Appeals panel affirmed the district court.⁹ The Ninth Circuit Court of Appeals rejected the CCP's preemption argument and applied exacting (intermediate) scrutiny to the challenged regulation, concluding that the requirement is substantially related to a sufficiently important governmental interest. The Ninth Circuit Court of Appeals noted that the CCP failed to show any actual burden on its freedom of association and rejected the CCP's facial challenge, but left the door open to a future as-applied challenge if the CCP could demonstrate "a reasonable probability that the compelled disclosure of its contributors' names will subject them to threats, harassment, or reprisals from either Government officials or private parties."¹⁰

In December 2014 and April 2015, two 501(c)(3) organizations, the Americans for Prosperity Foundation (AFPF) and the Thomas More Law Center (TMLC), filed separate lawsuits in federal court challenging the requirement both on its face and as applied to each plaintiff as violative of the guarantees of freedom of speech and association under the First Amendment. The district court granted preliminary injunctions barring California from demanding that the plaintiffs produce copies of their Schedule Bs during the pendency of their lawsuits. However, a Ninth Circuit Court of Appeals panel vacated those injunctions in December 2015.¹¹

After the Ninth Circuit Court of Appeals published its decision in the appeal brought by the CCP, the district court focused solely on the as-applied challenges brought by the AFPF and the TMLC and applied exacting (intermediate) scrutiny.¹² In April 2016, following a bench trial, the district court held that the requirement violated the AFPF's First Amendment rights and imposed a permanent injunction.¹³ The court reached the same conclusion and ordered the same relief with respect to the TMLC in November 2016.¹⁴ In doing so, the district court noted that

⁸ [Americans for Prosperity Found. v. Becerra and Thomas More Law Center v. Becerra, Combined Brief in Opposition to Petitions for Writs of Certiorari 4-5](#). The State of California explained this change by stating that prior to 2010, it lacked sufficient staff to address deficient filings.

⁹ [Ctr. for Competitive Politics v. Harris, 784 F.3d 1307, 1317 \(9th Cir. 2015\)](#), *cert. denied* 577 U.S. 975 (2015).

¹⁰ *Id.* at 1317 (quoting [McConnell v. Fed. Election Comm'n, 540 U.S. 93, 198 \(2010\)](#) and [Buckley v. Valeo, 424 U.S. 1, 74 \(1976\)](#)) (internal brackets omitted).

¹¹ [Americans for Prosperity Found. v. Harris, 809 F.3d 536, 538 \(9th Cir. 2015\)](#).

¹² The lawsuits were each assigned to U.S. District Court Judge Manuel Real. The Ninth Circuit Court of Appeals later held that while the district court stated it was applying exacting scrutiny, the tests applied were those utilized by courts applying strict scrutiny, which was not the appropriate level of scrutiny.

¹³ [Americans for Prosperity Found. v. Harris, 182 F. Supp. 3d 1049 \(C.D. Cal. 2016\)](#), *rev'd and vacated sub nom. Americans for Prosperity Found. v. Becerra, 903 F.3d 1000 (9th Cir. 2018).*

¹⁴ [Thomas More Law Ctr. v. Harris, No. 2:15-CV-03048, 2016 WL 6781090, at *7 \(C.D. Cal. 2016\)](#), *vacated sub nom. Americans for Prosperity Found. v. Becerra, 903 F.3d 1000 (9th Cir. 2018).*

California's Office of the Attorney General had a significant history of security lapses and Schedule Bs not being properly classified as confidential, increasing the likelihood "that compelled disclosure of Schedule B would chill Plaintiff's First Amendment rights."¹⁵

The Ninth Circuit Court of Appeals consolidated the two cases for purposes of appeal and reversed the district court in September 2018.¹⁶ The court held that requiring the filing of unredacted Schedule Bs furthered the state's interests of preventing fraud and self-dealing by charitable organizations. This holding mirrors that of the Second Circuit Court of Appeals in 2018, which upheld a similar requirement imposed by New York.¹⁷ The court held that the plaintiffs failed to show that the requirement will have more than a modest impact on contributions. The court stated that "[a]lthough there may be a small group of contributors who are comfortable with disclosure to the IRS, but who would not be comfortable with disclosure to the Attorney General, the evidence does not show that this group exists or, if it does, its magnitude."¹⁸ This holding likewise mirrored that of the Second Circuit Court of Appeals. With respect to the possibility of donors facing reprisals, the court noted that changes had been implemented to prevent future inadvertent disclosures of Schedule Bs and that the risk of future inadvertent disclosures was small. Given that slight risk, the court held that the plaintiffs failed to demonstrate "a reasonable probability that the compelled disclosure of personal information will subject them to threats, harassment, or reprisals."¹⁹ The court therefore held that the AFPF and the TMLC failed to show that the requirement imposed a significant burden on their First Amendment rights.

In March 2019 the Ninth Circuit Court Appeals declined to rehear the cases en banc and five judges dissented from that decision.²⁰ The dissenting judges forcefully argued that the panel that reversed the district court ignored substantial evidence showing that the state failed to safeguard Schedule Bs from public disclosure and that individuals affiliated with the plaintiffs have been subjected to harassment and threats. The dissenting judges stated that when a plaintiff satisfies its burden showing the likelihood of threats of violence and reprisals, the appropriate level of scrutiny to be applied is heightened to require narrow tailoring of the means

¹⁵ *Id.* at *5. The court also stated that "given the history of the Registry completely violating the 'longstanding confidentiality policy,' the Attorney General's assurances that a regulatory codification of the same exact policy will prevent future inadvertent disclosures rings hollow. The Attorney General's steps to attempt to rectify the disclosures and prevent future disclosures is commendable. Yet, trial testimony supported what should be an obvious fact, the Registry cannot assure that documents will not be inadvertently disclosed no matter what steps it takes."

¹⁶ [Americans for Prosperity Found. v. Becerra](#), 903 F.3d 1000 (9th Cir. 2018).

¹⁷ [Citizens United v. Schneiderman](#), 882 F.3d 374 (2d Cir. 2018). New York similarly did not enforce its requirement for years, but began seeking to compel the filing of unredacted Schedule Bs in 2013, which would remain confidential pursuant to a regulation. The New York regulation upheld by the Second Circuit Court of Appeals in 2018 is separate from statutes New York enacted in 2016, requiring public disclosure of some donors to 501(c) organizations. Those statutes were invalidated as facially violative of the First Amendment by a federal district court in 2019, and similar statutes enacted in New Jersey were effectively invalidated pursuant to permanent injunctions entered in three separate federal district court cases in 2020.

¹⁸ *Americans for Prosperity Found.* at 1014.

¹⁹ *Id.* (quoting [John Doe No. 1 v. Reed](#), 561 U.S. 186, 200 (2010) and [Buckley v. Valeo](#), 424 U.S. 1, 74 (1976)).

²⁰ [Americans for Prosperity Found. v. Becerra](#), 919 F.3d 1177 (9th Cir. 2019) (Ikuta, S., dissenting).

employed by the state.²¹ The dissenting judges also concluded that the requirement was not substantially related to the state's asserted interest because "Schedule Bs are rarely used to detect fraud or to enhance enforcement efforts."²²

Appeal to United States Supreme Court

Both the AFPP and the TMLC sought review by the United States Supreme Court.²³ In February 2020 the Supreme Court invited the Solicitor General to file a brief in the consolidated cases on behalf of the United States and in January 2021 the Court granted review. An oral argument date has yet to be scheduled. Aside from the fact that the Supreme Court previously denied review of a facial challenge to the same regulation in 2015, the cases are somewhat unique in terms of the number of amicus briefs that have been filed in support of the positions propounded by the AFPP and the TMLC, including those of the United States and the Council on American-Islamic Relations (CAIR).

The AFPP argues in its petition for review that the Ninth Circuit panel should have required narrow tailoring of the mechanism employed by the state, rather than merely requiring a substantial relation between the mechanism and the asserted state interest, because disclosure sought outside of the electoral context does not serve the purposes discussed in campaign finance and referendum petition cases such as *Citizens United v. FEC* and *Doe v. Reed*.²⁴ CAIR reiterates those arguments in its amicus brief.²⁵

The TMLC argues in its petition for review that the Ninth Circuit should have applied strict scrutiny and required narrow tailoring. The TMLC also reasserts its facial challenge to the requirement and argues that the requirement is unconstitutional, as applied to TMLC, under any standard because its supporters have been subjected to harassment and threats and the website of California's attorney general "is so vulnerable to hacks, leaks, and inadvertent disclosures 'that Schedule B information is effectively available for the taking.'"²⁶

In its amicus brief the United States, like the AFPP and CAIR, argues that the Ninth Circuit panel should have applied exacting scrutiny and required narrow tailoring.²⁷ However, the United States offers an additional argument in an attempt to distinguish the disclosure sought by the IRS from the disclosure sought by the State of California. The United States argues that unlike the State of California, the IRS does not compel 501(c) organizations to file Schedule Bs because that disclosure is required as a condition of participating in a "voluntary tax-benefit program—in effect, a governmental subsidy. An organization seeking the subsidy is not, strictly speaking, compelled to disclose its donors, because it always can forgo the governmental benefit."²⁸

²¹ *Id.* at 1179.

²² *Id.* at 1186.

²³ The Supreme Court docket numbers are [19-251](#) (AFPP v. Becerra) and [19-255](#) (TMLC v. Becerra).

²⁴ [AFPP's Petition for Writ of Certiorari at 22.](#)

²⁵ [Brief of Amicus Curiae Council on American-Islamic Relations at 4-7.](#)

²⁶ [TMLC's Petition for Writ of Certiorari at 30](#) (quoting *Americans for Prosperity Found.* at 1183).

²⁷ [Brief for the United States as Amicus Curiae at 8.](#)

²⁸ *Id.* at 12.

Potential Impact on Chapter 10A

Any decision reached by the Court is unlikely to directly impact Chapter 10A, because the tailoring required of disclosure requirements is different depending on whether the disclosure involved serves the informational and anti-corruption interests attendant to elections recognized in *Buckley v. Valeo* and its progeny. Moreover, if the Supreme Court reverses the Ninth Circuit solely with respect to the as-applied challenges of the plaintiffs, the application of the Court's holding is unlikely to be broad enough to impact Chapter 10A.

However, it is possible that an opinion sustaining the TMLC's facial challenge could be written broadly enough to require that disclosure requirements be more narrowly tailored even in the context of campaign finance. It is also possible that the Court could issue an opinion requiring an exemption procedure for those organizations whose donors are likely to face threats of violence or other reprisals due to their association with a recipient organization. If that occurs, the opinion could be informative, if not directly applicable, with respect to Minnesota Statutes section 10A.20, subdivisions 8 and 10. Those provisions establish an exemption procedure for contributors and entire associations if there is clear and convincing evidence that individuals would be exposed to threats of physical coercion or other reprisals as a result of the required disclosure. Finally, it is possible that an opinion could be written broadly enough to have some impact on Minnesota Statutes section 10A.27, subdivisions 13 and 15. Those provisions generally require committees, funds, and party units accepting contributions from unregistered associations to obtain a financial disclosure statement from each contributing association and then provide that disclosure statement to the Board, which is a public document. Under certain circumstances those disclosure statements may include the name and address of a donor to an unregistered association who did not intend for their donation to be used for political purposes, so their associational interests could be similar to those of individual contributors to the AFPF and the TMLC.



MINNESOTA CAMPAIGN FINANCE BOARD

Date: January 27, 2021

To: Board members
Counsel Hartshorn

From: Andrew Olson, Legal/Management Analyst

Subject: Enforcement report for consideration at the February 3, 2021 Board meeting

A. Consent Items

1. Administrative termination of lobbyist Eric Dick (2521)

A lobbyist principal, the Minnesota Medical Association, has requested that the lobbyist registrations of Mr. Dick on behalf of five related principals be terminated due to Mr. Dick's death on January 5, 2021. Board staff administratively terminated Mr. Dick's lobbyist registrations as of December 31, 2020, the end of the previous reporting period. Lobbyist disbursement reports were filed on Mr. Dick's behalf for four of the principals, covering the reporting period that ended on December 31, 2020. A reporting lobbyist for the fifth principal filed a lobbyist disbursement report inclusive of Mr. Dick's lobbyist disbursements during the reporting period that ended on December 31, 2020.

B. Waiver Requests

#	Committee/ Entity	Late Fee/ Civil Penalty	Report Due	Factors	Prior Waivers	Recommended Action
1	Noah Rouen (2955)	\$225 LFFs (\$75 x 3)	1st 2020 Lobbyist	3 reports were due 6/15/2020 and were filed 6/18/2020. Lobbyist had difficulty gathering records needed to complete the reports due to office closures resulting from COVID-19.	No	Waive

2	Todd Gramenz (4515)	\$1,075 LFFs \$1,000 CP	1st 2019 Lobbyist 1st 2020 Lobbyist 2nd 2020 Lobbyist	Report due 6/17/2019 was filed two days late resulting in an LFF of \$50. Report due 6/15/2020 was filed 1/6/2021 resulting in an LFF and a CP of \$1,000 each. Report due 1/15/2021 was filed 1/19/2021 resulting in an LFF of \$25. Lobbyist registered in January 2019 and over the course of four reporting periods has certified on each report that no lobbying disbursements have been made and he has not been paid more than \$500 within a calendar year to engage in lobbying. Because Mr. Gramenz does not appear to have been required to register as a lobbyist, staff is recommending waiver of the amounts owed, contingent upon Mr. Gramenz filing a lobbyist termination statement and agreeing not to register again unless he becomes a lobbyist as defined by Chapter 10A.	No	Waive, contingent upon termination
---	---------------------	----------------------------	---	---	----	------------------------------------

C. Informational Items

1. Payment of civil penalty for prohibited independent expenditures by a principal campaign committee

Perry Nouis for Minnesota, \$550

2. Payment of civil penalty for disclaimer violation

Perry Nouis for Minnesota, \$300

3. Payment of late filing fee for 2020 pre-general 24-hour notice

Win Justice, \$100

4. Payment of late filing fee for 2020 pre-general report of receipts and expenditures

Omar Fateh Senate Committee, \$350
Firefighters Association of Minneapolis Political Fund, \$50

5. Payment of late filing fee for September 2020 report of receipts and expenditures

CWA COPE PCC, \$50
CWA Working Voices, \$25

6. Payment of late filing fee for 2020 pre-primary 24-hour notice

Firefighters Association of Minneapolis Political Fund, \$250

7. Payment of civil penalty for 2017 year-end report

Vote Jerry Loud, \$1,000 (revenue recapture)

8. Partial payment of late filing fee for 2016 year-end report

Committee to Elect Wade Fremling House 3B, \$462.36 (revenue recapture)

9. Forwarded anonymous contributions

Doug Wardlow for Attorney General, \$28
Josiah Hill for Senate, \$25

10. Return of public subsidy due to exceeding carryforward limit

Aleta (Borrud) for MN Senate, \$6.69

11. Return of public subsidy due to overpayment

Rob Ecklund for 3A Rep, \$1,194.37
Lislegard (David) For House 6B, \$729.83
Tomassoni (David) for State Senate, \$655.91
Sundin (Mike) Volunteer Committee, \$635.80
Julie Sandstede For MN House Volunteer Committee, \$582.87
Murray Smart House District 12A, \$389.75
Shane Mekeland for MN House Representative, \$388.69
Ron Thiessen for MN House 15B, \$372.84
Dotseth (Jeff) Volunteer Committee, \$272.16
Michelle Lee for State Senate, \$269.69
Thomas Manninen for House District 3A, \$239.78
Committee to Elect Rob Farnsworth, \$210.44
Bakk (Thomas) for Senate, \$184.21
Andrew (Mathews) for Senate, \$141.17
Westrom (Torrey) for Senate Committee, \$121.48

Lobbyist Eric Dick (2521)

From: Dave Renner <drenner@mnmed.org>
Sent: Tuesday, January 19, 2021 10:03 AM
To: Engelhardt, Megan (CFB) <megan.engelhardt@state.mn.us>
Subject: Termination of Lobbyist Registration for Eric Dick

Assistant Director Engelhardt,

This is to inform you of the unexpected death of Eric Dick and ask that his lobbyist registrations be terminated.

Mr. Dick, lobbyist registration number 2521, died on Tuesday January 5, 2021. Mr. Dick was employed by the Minnesota Medical Association, where he was a registered lobbyist. In addition, Mr. Dick was the designated lobbyist for four organizations that contracted with the MMA for lobbying services. Please terminate Mr. Dick's registration as of December 31, 2020 for the following organizations:

- Minnesota Medical Association (3344)
- American Academy of Pediatrics—Minnesota Chapter (3049)
- American College of Physicians, Minnesota Chapter (7691)
- Minnesota Academy of Otolaryngology (5726)
- Minnesota Orthopaedic Society (3924)

In addition, please designate me, Dave Renner (7952) as the designated lobbyist for the four organizations for which Dr. Dick was the designated lobbyist.

Thank you and the Board for your assistance with this matter. Please let me know if there is further information you need.

Dave Renner, CAE
Director of Advocacy
Minnesota Medical Association
The voice of medicine in Minnesota since 1853
drenner@mnmed.org
3433 Broadway St. NE | Suite 187 | Minneapolis, MN | 55413
612-362-3750 office | 612-518-3437 mobile
mnmed.org | Twitter @mnmed



From: Noah Rouen <Noah@rouengroup.com>
Sent: Thursday, January 07, 2021 1:02 PM
To: Engelhardt, Megan (CFB) <megan.engelhardt@state.mn.us>
Subject: Fine Appeal

Meghan: I am writing to request to waive the filing fees for filing a late report on by June 15, 2020 report. As you know we were and still are in the middle of a global health pandemic. My office and offices of my clients were closed during parts of this period and it made collecting all of the information difficult especially without access to all the records relevant to the reporting.

I would also ask this because this is the only time I have incurred a fine or late report.

My Registration number is 2955

Please let me know the process. If it is denied I will promptly pay the fine.

Thanks

Noah

--

Noah Rouen

Chief Storyteller

The Rouen Group

603 Lake St., Suite 213

Wayzata, MN 55391

noah@rouengroup.com

www.rouengroup.com

612 419 6909

Creating Stories to Inspire ACTION.

Lobbyist Todd Gramenz (4515)

From: Todd Gramenz <blacklivesmattersaintpaul@gmail.com>

Sent: Friday, December 11, 2020 3:06 PM

To: Sigurdson, Jeff (CFB) <jeff.sigurdson@state.mn.us>

Subject: Lobbyist Report

Hello,

Again, thank you for your help today. Due to COVID-19, we were informed Representatives couldn't meet w their constituents, so our report for the year is \$0. We apologize for the delay. We have been very busy and involved with justice reform since the death of George Floyd and his family in Minneapolis. Please help us cover any fees associated with filing late. Thanks.

Todd Gramenz
Black Lives Matter Coalition

CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD
February 2021

ACTIVE FILES

Candidate/Treasurer/ Lobbyist	Committee/Agency	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Served by Mail	Default Hearing Date	Date Judgment Entered	Case Status
Sandra (Sandi) Blaeser		2018 Public Official Statement of Economic Interest	\$100 LFF and \$1,000 CP	9/11/20				
		2019 Public Official Statement of Economic Interest	\$100 LFF and \$1,000 CP					
Chilah Brown Michele Berger	Brown (Chilah) for Senate	Unfiled 2016 Year- End Report of Receipts and Expenditures	\$1,000 LFF \$1,000 CP	3/6/18	8/10/18 1/8/21			Removed from hold 9/14/20 at Board's request.
		Unpaid late filing fee on 10/31/16 Pre- General Election Report	\$50 LFF					
Alyssa Eichman	Swing Right PAC	Unfiled 2018 Year- End Report of Receipts and Expenditures	\$1,000 LFF \$1,000 CP	10/5/20				
		Late Filing of 2018 Pre-General Report due 10/29/18; filed on 10/30/18	\$50 LFF					
Kelly Gunderson		Candidate Statement of Economic Interest due 6/16/20	\$100 LFF \$1,000CP	9/23/20				

Candidate/Treasurer/ Lobbyist	Committee/Agency	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Served by Mail	Default Hearing Date	Date Judgment Entered	Case Status
Marcus Harcus	MN Campaign for Full Legalization	Original Statement of Economic Interest, due 6/16/20	\$100 LFF \$1,000 CP	10/5/20				
		Lobbyist Disbursement Report due 6/15/20	\$1,000 LFF \$1,000 CP					
		Lobbyist Disbursement Report due 1/15/20	\$1,000 LFF \$1,000 CP					
		Late Filing of Lobbyist Disbursement Report due 1/15/19; filed on 6/16/19	\$1,000 LFF					
		Late Filing of Lobbyist Disbursement Report due 6/15/18, filed on 6/27/18	\$200 LFF					
		Annual Lobbyist Principal Report, due 3/16/20	\$1,000 LFF \$1,000 CP					
Beau Hullerman		Candidate Statement of Economic Interest due 6/16/20	\$100 LFF \$1,000CP	9/23/20				
Tim Johnson		Candidate Statement of Economic Interest due 6/16/20	\$100 LFF \$1,000CP	9/11/20				

