

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

.....
**March 13, 2019
Room G-31
Minnesota Judicial Center**
.....

MINUTES

The meeting was called to order by Chair Leppik.

Members present: Flynn, Haugen (by telephone), Leppik, Moilanen (by telephone), Rosen (arrived during executive director's report), Swanson (by telephone)

Others present: Sigurdson (arrived during enforcement report), Engelhardt, Olson, Pope, staff; Hartshorn, counsel

MINUTES (February 6, 2019)

After discussion, the following motion was made:

Member Flynn's motion: To approve the February 6, 2019, minutes as drafted.

Vote on motion: A roll call vote was taken. Motion passed (5 ayes, Member Rosen was absent).

CHAIR'S REPORT

A. Meeting schedule

The next Board meeting is scheduled for 10:30 a.m. on Wednesday, April 3, 2019.

EXECUTIVE DIRECTOR REPORT

Mr. Sigurdson presented members with a memorandum regarding this matter that is attached to and made a part of these minutes. Because Mr. Sigurdson was attending a legislative hearing, Ms. Engelhardt reviewed the memorandum with members. Ms. Engelhardt told members that no hearings had been scheduled on the Board's legislative recommendations. Ms. Engelhardt said that because the first committee hearing deadline was March 15th, it did not appear that the Board's proposals would move forward this year. Ms. Engelhardt also stated that staff was busy reviewing the campaign finance reports that had been filed in January.

REPORT ON LATE FEES AND CIVIL PENALTIES

Mr. Sigurdson presented members with a memorandum regarding this matter that is attached to and made a part of these minutes. Ms. Engelhardt told members that the memorandum recommended that

the Board start imposing the entire civil penalty for a late report on the first date allowed by statute instead of imposing that penalty over a ten-week period. Ms. Engelhardt said that with this change, committees still would have 20 to 40 business days to submit their reports before incurring the civil penalty. Ms. Engelhardt also stated that the recommended change would allow committees that did not file reports to be referred more quickly to the attorney general's office for action.

After discussion, the following motion was made:

Member Flynn's motion:

To adopt the following resolution:

RESOLVED, that the Board revokes its prior policy of imposing the \$1,000 civil penalty for a late report in increments of \$100 per week and instead will impose the entire \$1,000 civil penalty for a late report on the first day allowed by statute. This resolution is effective for reports due after March 13, 2019.

Vote on motion:

A roll call vote was taken. All members voted in the affirmative.

ENFORCEMENT REPORT

The enforcement report did not strictly follow the order set forth in the written report.

A. Discussion items

4. Request for second residence waiver – Kevin Reich (Red Lake County SWCD)

Mr. Olson told members that Mr. Reich had filed an annual statement of economic interest on January 25, 2019. With his statement, Mr. Reich also submitted a request under Minnesota Statutes section 10A.09, subdivision 9, to waive the requirement that he disclose the address of his second residence. Mr. Olson said that Mr. Reich stated that the waiver request was being made because the property was located along a county easement road and neighboring property owners had experienced trespassing, hunting without permission, and vandalism. Mr. Reich said that he did not want to encourage any of these things toward his property or his neighbors' properties.

After discussion, no motion was made on this request.

1. Request to suspend efforts to obtain economic interest statement and accrued late fees and civil penalties – Al Brazier (Two Rivers WD)

Mr. Olson told members that during the annual recertification, staff had discovered that Mr. Brazier had health issues that prevented him from completing his termination/annual statement of economic interest. Mr. Brazier resigned from his position during the reporting year. Mr. Olson said that staff had not had any contact with any one authorized to file a statement on Mr. Brazier's behalf. Staff therefore was asking the Board to suspend its efforts to obtain a statement from this official and to waive any late fees and civil penalties that may have accrued.

2. Request to accept economic interest statement and to waive late fee – Joe Connolly (Le Sueur County Board of Commissioners)

Mr. Olson told members that during the annual recertification, staff also had discovered that Mr. Connolly had health issues that prevented him from completing his termination/annual statement of economic interest. Mr. Connolly had not run for re-election to his county commissioner seat. Mr. Olson said that although staff had planned to ask the Board to suspend its efforts to obtain a statement from Mr. Connolly, Mr. Connolly's wife had gone ahead and submitted a statement on his behalf before staff could make the request. Mr. Olson said that it was not clear to staff whether the statute allowed Mrs. Connolly to submit a statement for Mr. Connolly. In addition, the statement filed by Mrs. Connolly was one day late. Mr. Olson said that staff therefore was asking the Board to accept the statement filed on Mr. Connolly's behalf and to waive the \$5 late fee.

3. Request to suspend efforts to obtain economic interest statement and accrued late fees and civil penalties – John Magedanz (Sauk River WD)

Mr. Olson told members that during last year's annual recertification, staff had notified Mr. Magedanz that he was required to file a statement of economic interest. Mr. Olson said that although Mr. Magedanz strongly objected to the required disclosure, he had filed a statement on February 20, 2018, and had indicated that he would be resigning from the watershed district board at its next meeting, which was scheduled for March. Mr. Olson said that the minutes for the watershed district's March 2018 meeting confirmed that Mr. Magedanz submitted his resignation, effective immediately, at that meeting. Mr. Olson said that staff therefore was asking the Board to suspend its efforts to obtain a statement from this official and to waive any late fees and civil penalties that may have accrued.

5. Request for retroactive termination of lobbyist David Johnson (2929)

Mr. Olson told members that Mr. Johnson's principal association, the Karen Organization of Minnesota, had notified Board staff that Mr. Johnson had not been employed by the association since 2015 and had not responded to attempts to contact him. Mr. Olson said that Mr. Johnson had come to the Board's office on March 5, 2019, and had filed a termination statement requesting that the termination be made retroactive to December 31, 2015.

6. Request for retroactive administrative termination of lobbyist Kara Genia (1858)

Mr. Olson said that Ms. Genia's principal association, the Karen Organization of Minnesota, had notified Board staff that Ms. Genia had not been employed by the association since the end of 2017 and had not responded to attempts to contact her. Mr. Olson said that the association was asking the Board to retroactively terminate Ms. Genia's registration effective December 31, 2017.

After discussion, the following motion was made:

Member Flynn's motion: To approve discussion items 1, 2, 3, 5, and 6.

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

7. Balance adjustment request - Minnesota College Republicans Political Fund (30664)

Mr. Olson told members that this balance adjustment request was related to the first waiver request on the report. Mr. Olson said that after the 2016 general election, the treasurer of the Minnesota College Republicans Political Fund had resigned and a new treasurer had not been elected until April 1, 2017. The new treasurer was not given any records except for bank statements, which did not clearly distinguish between the receipts and expenditures of the political fund and those of its supporting association. Mr. Olson said that the new treasurer had completed the fund's 2016 year-end report, which showed an ending cash balance of \$540.60, but that the treasurer believed that the fund's actual cash balance as of the end of 2016 was \$137.96, a difference of \$402.64. The treasurer has been unable to account for the variance and thus was asking the Board to adjust the fund's 2016 ending cash balance from \$540.60 to \$137.96. Mr. Olson said that the fund had submitted a termination report that was pending on the Board's approval of the requested balance adjustment.

After discussion, the following motion was made:

Member Rosen's motion: To approve the balance adjustment as requested.

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

C. Waiver requests

<u>Name of Candidate or Committee</u>	<u>Late Fee & Civil Penalty Amount</u>	<u>Reason for Fine</u>	<u>Factors for waiver</u>	<u>Board Member's Motion</u>	<u>Motion</u>	<u>Vote on Motion</u>
Minn College Republicans Political Fund (30664)	\$2,000 LFFs \$2,000 CPs	2017 year-end 2018 year-end	Treasurer elected 4/1/17 was told that fund's registration had been terminated. Upon realizing that year-end reports were not filed for 2016 or 2017 and that fund's registration was never terminated, treasurer worked with Board staff to file accurate reports, which was complicated by lack of records and confusion as to which receipts and expenditures were attributable to fund and which were attributable to supporting association. Termination report pending on Board's approval of balance adjustment in item 7.	Member Flynn	To waive the late filing fees and civil penalties	Roll call vote taken. Motion passed (5 ayes, Member Rosen voted nay).
David A Singleton Elect Secretary of State (17768)	\$25 LFF	Q1 2018	Candidate received no contributions and made no expenditures and thus was never required to register. He hasn't run for state office since 2014 and filed a termination report in January 2019.	Member Flynn	To waive the late filing fee	Roll call vote taken. Motion passed (5 ayes, Member Rosen voted nay).

Flippable - MN Victory Fund (70055)	\$50 LFF	2018 pre-general	Treasurer submitted report via ISP (3rd party software) on due date and was told by ISP that report was submitted successfully. Board staff told ISP the next day that report was rejected by our FTP server because it listed reporting period end date as 10/18/2018 rather than 10/22/2018. Typo was corrected and report was resubmitted.	Member Flynn	To waive the late filing fee	Roll call vote taken. Motion passed (5 ayes, Member Rosen voted nay).
David Schad (DNR)	\$10 LFF	2018 EIS	Official retired 1/8/2019 and contact info on file included his work email and work phone number. Official didn't think he needed to file EIS as he was no longer a state employee and he didn't receive notice of need to file until after due date.	Member Flynn	To waive the late filing fee	Roll call vote taken. Motion passed (5 ayes, Member Rosen voted nay).
Randy Ellingboe (Dept of Health)	\$15 LFF	2018 EIS	Official retired in July 2018 and contact info on file included his work mailing and email addresses. Official didn't receive notice of need to file until after due date.	Member Flynn	To waive the late filing fee	Roll call vote taken. Motion passed (5 ayes, Member Rosen voted nay).
Dwight Swanson (High Island Creek WD)	\$15 LFF	2018 EIS	Official had difficulty completing form online and tried to email his EIS to Board staff. He then was contacted by Board staff and mailed a paper copy of the form, but that form wasn't received back until after deadline.	Member Flynn	To waive the late filing fee	Roll call vote taken. Motion passed (5 ayes, Member Rosen voted nay).
Metro Grassroots Outreach Partnership (41183)	\$125 LFF	May 2018	Treasurer was dealing with wife's serious health issues when report came due.	Member Flynn	To waive the late filing fee	Roll call vote taken. Motion passed (5 ayes, Member Rosen voted nay).

9. 60th Senate District DFL (20473) - \$2,000 LFFs, \$1,600 CPs – 2018 pre-primary and pre-general

Mr. Olson told members that the former treasurer of this party unit incorrectly had told the chair that the reports had been filed. Mr. Olson said that after realizing that the treasurer had failed to file the reports, the party unit elected a new treasurer and the chair filed the reports.

Sonia Neculescu, the party unit chair, then addressed the Board. Ms. Neculescu told members that she believed that the reports had been filed and that when she learned otherwise, she filed them. Ms. Neculescu said that the previous treasurer had not been active for several meetings and had not responded to communications from the party unit's officers. Ms. Neculescu said that the treasurer had

resigned and that Sonja Peterson was the new treasurer. Ms. Peterson then told members that she had been involved with the party unit's governance in the past and that she believed that this was the first time that the party unit's reports had been late. In response to questions from members, Ms. Neculescu and Ms. Peterson said that the party unit had adopted new onboarding procedures for its officers to ensure that reports would be filed on time in the future.

After discussion, the following motion was made:

Member Rosen's motion: To reduce the late filing fees to \$400 and the civil penalties to \$200.

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

<u>Name of Candidate or Committee</u>	<u>Late Fee & Civil Penalty Amount</u>	<u>Reason for Fine</u>	<u>Factors for waiver</u>	<u>Board Member's Motion</u>	<u>Motion</u>	<u>Vote on Motion</u>
(Bob) Carney for Governor (17007)	\$75 LFF	2018 year-end	Candidate/treasurer was surprised to find that there was no grace period after due date and had difficulty figuring out how to email paper report.	Member Swanson	To waive the late filing fee	Roll call vote taken. All members voted in the affirmative.
Tori Hill for House (17526)	\$575 LFF	2018 year-end	Paper no-change statement was completed but treasurer and candidate forgot to fax it to us and they were out of town in January and February. Candidate intends to terminate committee later this year.	Member Flynn	To reduce the late filing fee to \$125	Roll call vote taken. All members voted in the affirmative.
Mark Bartusek for Senate (17895)	\$575 LFF	2018 year-end	Candidate/treasurer states that he did not receive any notice of need to file report until 3/4/19, despite fact that we had correct mailing address and phone number. Our records show that he was called the afternoon of 1/31 to remind him of filing deadline. Report was no-change statement.	No motion		

D. Informational Items

1. Payment of late filing fee for 2017 year-end report of receipts and expenditures

Alberder Gillespie, \$350
 Dan Schoen, \$50

2. Payment of late filing fee for 2018 pre-primary report of receipts and expenditures

Calandra Revering, \$100

3. Return of public subsidy payment

Kyle Bragg, \$509.31

4. Payment of late filing fee for 2018 pre-general report of receipts and expenditures

7B House District RPM, \$400
Houston County RPM, \$200
Leech Lake PAC, \$800
Luke McCusker, \$50
Sibley County RPM, \$150

5. Payment of late filing fee for 2018 year-end report of receipts and expenditures

Robin Courrier, \$125
Alberder Gillespie, \$225
Grassroots Legalize Cannabis Party, \$200
John Jasinski, \$25
Ed Matthews, \$25
Calandra Reverting, \$25
Dan Schoen, \$25

6. Excess carry forward

Shelly Christensen, \$1264.72
Donzel Leggett, \$175.44

7. Payment of civil penalty for a contribution from an unregistered association

JLG Architects Employee PAC, \$225
MN Architects PAC, \$225

8. Payment of civil penalty for a corporate contribution

Legacy Painting, LLC \$90

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 there were updates to several matters on the report.

EXECUTIVE DIRECTOR REPORT

Mr. Sigurdson told members that he had just attended the House Subcommittee on Elections where the house omnibus election bill had been discussed. Mr. Sigurdson said that none of the Board's 2019 legislative recommendations were in the bill but that the bill did include some Board proposals from 2015. Mr. Sigurdson said that he had met with several legislators who were not opposed to the Board's 2019 legislative proposals but who were not interested in carrying them this year. Mr. Sigurdson said that the legislature appeared to be busy with budget matters.

OTHER BUSINESS

There was no other business to report.

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeff Sigurdson". The signature is written in a cursive style with a large, stylized initial "J".

Jeff Sigurdson
Executive Director

Attachments:
Executive director's report
Memorandum regarding late fees and civil penalties
Legal report



MINNESOTA CAMPAIGN FINANCE BOARD

Date: March 6, 2019

To: Board Members

From: Jeff Sigurdson, Executive Director

Telephone: 651-539-1189

Re: Executive Director's Report – 2019 Board Operations

Legislative Session

The Board's budget change request to the base operations budget (an additional \$75,000 per year) and the onetime software development request (\$50,000) were both included in the Governor's overall budget request for the executive branch. The House State Government Finance Division (Rep. Michael Nelson, Chair) reviewed the budget change requests on March 6th. The requests were laid over for possible inclusion in the state operations omnibus bill. As of the date of this memo the Senate State Government Finance and Policy and Elections Committee (Sen. Mary Kiffmeyer, Chair) has not scheduled a hearing that would include a review of the Board's change items.

I have met with the policy committee chairs, and when available, the minority leads in the Senate and House to discuss and advocate for the Board's legislative recommendations. Legislative staff are reviewing the recommendations; I hope to have additional information by the Board meeting. The first legislative deadline, which is the date by which a bill must have passed out of at least the initial policy committee in the body of origin, is March 15th.

Public Subsidy Payment – Special Election House District 11B

The Board will issue public subsidy payments to the qualified candidates in the special election for House District 11B after the state canvassing board certifies the results of the primary on March 8, 2019. Pending the canvassing board results, the anticipated payments will be \$3,521.58 to Tim Burkhardt (DFL) and \$3,102.65 to Nathan Nelson (RPM).

Staff Presentations

I presented information on the political contribution refund (PCR) program to the Senate Campaign Finance Committee of the Oregon State Legislature by teleconference on February 27, 2019. It appears that several states are considering political contribution matching fund legislation this year, and staff is often asked for information on the PCR program.



MINNESOTA

CAMPAIGN FINANCE BOARD

Date: March 6, 2019

To: Board Members

From: Jeff Sigurdson
Executive Director

Subject: Review of late filing fees and civil penalties for late disclosure reports.

To motivate the timely filing of various disclosure reports and statements Chapter 10A provides a series of late fees for missing a filing deadline. In addition, the Board may impose a civil penalty for reports that are very late. For all reports, late fees do not accrue on weekends or state holidays. The late fees vary in amount by program, and by report type within the campaign finance program. By program, the late fees and civil penalty that may be imposed are as follows.

Campaign Finance

During a non-election year the only report required of any committee, fund, or party unit is the year-end report. The late fee for a year-end report is \$25 per day, which begins to accrue the day after the report was due. The maximum late fee for a single campaign finance report is \$1,000.

During an election year a legislative candidate that appears on the general election ballot will file three reports: a year-end, a pre-primary, and a pre-general report. Failure to file the pre-primary or the pre-general report by the due date results in a late fee of \$50 a day, which starts the first day after the report is due. In addition to the pre-primary, pre-general, and year-end reports a constitutional candidate or a candidate for an appellate court seat must file a first quarter report (January – March 31) and a post-filing period report (January – May) during years when the office is on the ballot. These two additional reports accrue a late fee of \$25 a day to a maximum of \$1,000.

During an election year all party units, political committees, and political funds also file the pre-primary and pre-general reports subject to the \$50 per day late fee for filing after the deadline. In addition, all political committees and funds and the state central committees and legislative party units file three additional reports. Two of the additional reports match up with the filing periods for constitutional and appellate court candidates and are subject to a late fee of \$25 per day. The maximum late fee is again \$1,000 per report. The third report is identified in Minnesota Statutes section 10A.20, subdivision 2, as a second pre-general election report (due 42 days before the general election) and has a late filing fee of \$50 a day, with a maximum of \$1,000.

The campaign finance program also requires the filing of a 24-hour notice of a large contribution if the committee receives a contribution in excess of a given amount shortly before the primary or general election. Failure to provide a report of the large contribution within 24 hours of receipt results in a late filing fee of \$50 per day, to a maximum of \$1,000. The 24-hour notice does not apply to political party units.

All late fees start the day after the due date (unless the due date falls on a Friday) and start without any additional notification from the Board. If any of reports referenced above is not filed within ten business days of the due date, the Board must send a certified letter that notifies the filer that the Board may impose a civil penalty of up to \$1,000 in addition to the late fee which is already being assessed. The Board may impose the full \$1,000 civil penalty if the report is not filed within seven days after the certified notice was mailed.

It is important to note that in 2003 the Board adopted a two-part policy that dramatically altered the way in which civil penalties are applied to late filers. First, instead of applying the civil penalty seven days after the mailing of the certified letter, the Board directed staff to apply the civil penalty only after the maximum late fee has accrued. It takes twenty business days to accrue the full \$1,000 late fee at the rate of \$50 a day, and forty business days to accrue the full \$1,000 late fee at the rate of \$25 per day.

Second, the Board policy provides that the civil penalty for the late filing of a report will be applied in weekly increments of \$100, rather than imposing the full \$1,000 maximum as a beginning point. Prior to this policy change the full \$1,000 civil penalty was assessed on the first day available for civil penalties, which as referenced above is seven days after the date the certified letter is mailed. In discussion before adopting the policy, Board members thought that it would be fair to increase civil penalties based on the tardiness of the report, and that fewer waiver requests might result if the civil penalty was not always immediately applied at the maximum amount.

However, the result of the policy has been that it takes ten additional weeks to reach the maximum \$1,000 civil penalty. When added to the requirement that the civil penalty not start until the late fee has reached the \$1,000 maximum, the practical effect is that a committee is not subject to the full \$1,000 late fee and \$1,000 civil penalty until long after the election is over. For example, failure to file a pre-general report would not result in the maximum late fees and civil penalties being assessed for seventy business days, or approximately 3½ months after the due date.

Economic Interest Statement

An original statement of economic interest is due within 60 days of accepting employment as a public or local official, unless the public official position requires the advice and consent of the Senate, in which case the statement is due within 14 days of taking office. An original statement is also required within 14 days of filing for office from all state constitutional and legislative candidates, and candidates for an elective office except county commissioner in a metropolitan governmental unit. An original statement is required from a judge or from a county commissioner within 60 days after assuming office. Failure to file an original statement by the due date results in a \$5 per day late fee, to a maximum of \$100. However, unlike campaign finance reports, the late filing of an economic interest statement has a grace period of ten business days before the late fee begins to accrue.

Each year a public official must also file an annual statement by the last Monday in January. The late fee is again \$5 per business day, beginning on the eleventh day after the statement was due, to a maximum of \$100.

Similar to the campaign finance program, if an economic interest statement is not filed within ten business days after the deadline, the Board must send a certified letter warning the official or candidate that the Board may impose a civil penalty of up to \$1,000. The Board may impose the civil penalty if the report is not filed within seven days after the certified notice was mailed.

The Board policy of not starting the civil penalty until the late fee reaches the maximum, and applying the civil penalty in weekly increments, also applies to economic interest statements.

Lobbyist Program

A lobbyist registered as the reporting or designated lobbyist for an association must file two disbursement reports a year. The reports are due on January 15 and June 15. In March of each year an association represented by lobbyists in Minnesota must file the principal report. The late fee for a lobbyist disbursement report or a lobbyist principal report is \$25 per day, to a maximum of \$1,000 per report. The late fee starts to accrue the day after the report deadline. Similar to the campaign finance and economic interest programs the Board must send a certified letter to the lobbyist or principal if the report is not filed within ten days of the deadline to notify the filer that the Board may impose a civil penalty of up to \$1,000 if the report is not filed within seven days after the certified notice was sent.

The Board policy of not starting the civil penalty until the late fee reaches the maximum \$1,000, and applying the civil penalty in weekly increments, also applies to lobbying program.

Other Late Fees

Chapter 10A also provides late fees for failing to register a political committee or submit a lobbyist registration within specified timelines. For both the lobbying and campaign finance program failure to register with the Board in a timely manner is punishable by a late fee of \$25 per day to a maximum of \$1,000, and a \$1,000 civil penalty.

Chapter 10A also allows the Board to impose a late fee of \$25 per day, up to a maximum of \$1,000, and a civil penalty of up to \$1,000 on a person who does not file an amended report after being notified of the need to do so or who does not respond to a request for reconciliation information.

There are also penalties for failing to timely submit underlying disclosure with contributions of over \$200 from unregistered associations, or with contributions of over \$5,000 to independent expenditure committees and funds. The failure to file these statements in a timely manner is rarely apparent to the Board as the filing is with the recipient of the contribution, and the deadline varies by when the contribution is received. Typically, the Board only becomes aware of a late filing through an investigation, and findings or conciliation agreements are used to resolve the violation.

Staff's priority has focused on securing underlying disclosure from unregistered associations for contributions accepted by registered committees. A harder line approach to the late filing of

underlying disclosure may be appropriate, but if started should be announced to the regulated community prior to an election year.

Office of the Attorney General

The Board policy is to refer a matter to the Attorney General for court action to secure a report and/or late fees and civil penalties only after the maximum late fee and civil penalty has accrued. Given that the Board only meets once a month referral of a delinquent committee may take up to five months after the report was due, with additional time needed for the Attorney General to take action.

Of note Minnesota Statutes section 10A.20, subdivision 15, provides “A candidate whose opponent does not timely file the report due 15 days before the primary, the report due ten days before the general election, or the notice required under section 10A.25, subdivision 10, may petition the district court for immediate equitable relief to enforce the filing.” To my knowledge this provision has never been used, and is not an option for reports owed by entities other than a principal campaign committee.

The authority for the Board to refer matters to the Office of the Attorney General is found in Minnesota Statutes section 10A.34, which provides in part:

Subdivision 1. Personal liability. A person charged with a duty under this chapter is personally liable for the penalty for failing to discharge it.

Subd. 1a. Recovering fees and penalties. The board may bring an action in the district court in Ramsey County to recover a fee, late filing fee, or penalty imposed under this chapter. Money recovered must be deposited in the general fund of the state.

Subd. 2. Injunction. The board or a county attorney may seek an injunction in the district court to enforce this chapter.

Waiver Requests – Collection of Late Fees

The Board is required to consider a waiver or reduction of late fees and civil penalties for good cause. To reduce the number of late reports, and therefore the number of waiver requests, staff sends reminder notices by 1st class mail and email, and at the deadline calls treasurers who have not yet filed. Nonetheless, as Board members are well aware, there are always a large number of waiver requests after a major filing deadline.

The Board has always been very responsive to waiver requests. The chart below shows the total amount of late fees collected for each of the last four fiscal years, and the amount of late fees waived by the Board over the same period.

Fiscal Year	Late Fees Collected	Late Fees Waived
2015	\$29,963	\$9,977
2016	\$17,482	\$9,618
2017	\$43,930	\$12,703
2018	\$33,816	\$21,120
Total	\$125,191	\$53,418

In total, the Board waived 30% of the late fees accrued for the filing of late reports or statements during the four-year period. When preparing waiver requests for Board consideration staff color codes the requests. Green means that the request is based on a reason or circumstance that the Board has accepted in the past. The green code reflects staff's believe that the waiver request should be accepted, at least in part, for the sake of consistency in granting waivers.

Waiver requests in yellow also typically state a reason consistent with those the Board has accepted in the past. However, the amount of the waiver request is, in staff's view, not in proportion to the reason provided, and it may be appropriate to grant a waiver of only a portion of the accumulated late fees and civil penalties.

Waiver requests in red typically state reasons that have not previously been recognized by the Board as sufficient, and in staff's view are not sufficient to justify a waiver of late fees or civil penalties.

The color coding is only meant to help Board members focus their evaluation of waiver requests. Members are of course free to ignore the coding applied by staff.

Acceptable waiver requests are usually based on one of the reasons listed below.

"Health" means the health of either the treasurer or the candidate. Although usually honored, in some cases, the waiver request may be only partially granted if the report was extremely late.

"Small Committees" means committees that did not have the funds needed to pay the fine, and were from their history unlikely to ever have sufficient funds. This is not a waiver request reason, but staff has noted that the Board takes the ending cash balance of the committee into account when applying a penalty.

"Fax" is when a committee is able to provide a fax transmittal log as evidence that a report was faxed to the Board in a timely fashion.

"Change of Address" is when the committee did not update the contact information for the new treasurer and notices were sent to the wrong individual.

"Out of Town" means a lengthy business or vacation trip that had the treasurer out of town at the filing deadline.

"Software Problem" is when the committee can provide some evidence that the committee could not file a report with Campaign Finance Reporter. Recently this has included cases where the treasurer clearly did not know how to use the software.

"Terminate" is when the committee was also asking to terminate, or agreed to terminate, if the late fee was waived.

"Treasurer Problem" includes prior treasurers who refused to give up the committee's records for some period of time, or told the candidate or chair that a report had been filed when in fact the report had not been sent.

"Family Emergency" includes family health issues and financial problems.

“New Treasurer” means a treasurer who came into the position during the filing period, or who was otherwise able to convince the Board that they did not understand what they were required to do.

“Military Service” is service that takes the candidate or treasurer out of state during the filing period.

“Other” includes waivers that were hard to categorize or had multiple reasons stated in the request.

Conclusions

This review of late filing fees was initially undertaken to determine if there was a need to recommend a legislative change in the application of late filing fees or civil penalties. At this point, staff recommends no changes to statutory provisions on late fees. It would be difficult in my view to ask the legislature for increased penalties when the Board has not been fully using the penalties already available in statute.

Instead, I encourage the Board to consider changes to its policies and procedures so as to apply the full civil penalty available seven days after the mailing of a certified notice. Potentially this will encourage committees to file in a timelier manner, and will reduce the period of time before a matter is referred to the Attorney General to compel filing. The Board may very well end up waiving up additional civil penalties under the recommended change, but the threat of civil penalties will hopefully provide more timely disclosure to the public.

**CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD
March 2019**

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
Jamal Abdulahi	Resilient PAC	2018 pre-primary; 2018 pre-general; Amended 2018 report	\$1,000 LF \$1,000 CP \$1,000 LF \$1,000 CP Accruing LF Accruing CP	2/19/19				
Chilah Brown Michele Berger	Brown (Chilah) for Senate	Unfiled 2016 Year- End Report of Receipts and Expenditures Unpaid late filing fee on 10/31/16 Pre- General Election Report	\$1,000 LF \$1,000 CP \$50 LF	3/6/18	8/10/18			
Brenden Ellingboe	Ellingboe (Brenden) for House	Unfiled 2015 Year- End Report of Receipts and Expenditures	\$1,000 LF \$1,000 CP	11/29/16	5/26/17			Placed on hold by Board
Richard Hamer		2017 Annual Statement of Economic Interest	\$100 LF \$1,000 CP	1/28/19				

