

**COMPLAINT FOR VIOLATION OF
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE ACT
SUBMITTED BY COMMON CAUSE MINNESOTA**

Common Cause Minnesota ("Common Cause") files this complaint against the National Organization for Marriage Minnesota Marriage Fund ("NOMMMF") for violating Minn. Stat. §§ 10A.025, 10A.27 subdivision 15 and 10A.20.

This complaint alleges that the National Organization for Marriage Minnesota Marriage Fund filed a false report with the Campaign Finance and Public Disclosure Board ("CFDB") by failing to report a \$15,000 contribution made to Minnesota for Marriage on June 12, 2012.

Relevant Documents Attached to This Complaint

1. Attachment A – *Report of Receipts and Expenditures* filed by the National Organization for Marriage Minnesota Marriage Fund filed on June 19, 2012, which was obtained from the CFB's web site.
2. Attachment B – *Report of Receipts and Expenditures* filed by the Minnesota for Marriage filed on June 19, 2012, which was obtained from the CFB's web site.
3. Attachment C and D – E-mail solicitation from NOM

Factual Background

1. The Report

National Organization for Marriage Minnesota Marriage Fund 56th Day Pre-Primary report states that the NOMMMF made no expenditures and received no contribution during the reporting period of January 1, 2012 to June 12, 2012. However, the Minnesota for Marriage report for the same period shows a contribution from NOMMMF of \$15,000 made on June 12, 2012.

VIOLATIONS OF MINNESOTA LAW

1. Filing a False Statement

The NOMMMF filed a false statement with the Campaign Finance Disclosure Board by failing to report any contribution or expenditures from its 56th Day Preprimary Report.

A political committee is required to file a *Report of Receipts and Expenditures* with the CFDB on specified dates. The report must disclose the name, address, and employer, or occupation if

self-employed, of each individual or association that has made one or more contributions to the reporting entity. Minn. Stat. § 10A.20, subd. 3(b) (2010). In addition, the report must also include the name and address of each individual or association that it made expenditures to or behalf of. Minn. Stat. § 10A.20, subd. 3(g) (2010).

An individual who signs and certifies to be true a report or statement submitted to the CFDB knowing it contains false information or who knowingly omits required information is guilty of a gross misdemeanor and subject to a civil penalty imposed by the CFB of up to \$3,000. Minn. Stat. § 10A.025, subd. 2 (2010).

The NOMMMF should have disclosed the contributions that it received and expenditures that it made to the Minnesota for Marriage for a total of \$15,000.00. It was not.

The amount of \$15,000 was reported on the Minnesota for Marriage 56 Day Preprimary report as a contribution from NOMMMF on June 12, 2012. This contribution was not reported on the NOMMMF report. In fact, NOMMMF reported that it had no activity during the entire reporting period of January 1, 2012 through June 12, 2012. During that period, NOMMMF also reported that it had no cash on hand. That means that NOMMMF either had to seek a loan to pay for the contribution or received \$15,000 worth of contributions that it also failed to report on the form.

The CFDB should find that an act of filing a false statement has occurred and impose the maximum penalty of \$3,000.

2. Failing to properly disclose contributions to the National Organization for Marriage Protection Fund.

The NOMMMF failed to disclose the source of the \$15,000 contribution that it made to Minnesota for Marriage. Since, NOMMMF reported that it \$0 cash on hand at the end of the 2011 reporting period. It could only make that expenditure as a result of a contribution or loan payment. Both potential options were not disclosed on the 56 Day Pre-Primary Report for 2012.

An association not registered with the CFDB, if not prohibited by other law, may contribute revenue from membership dues or fees or from contributions received by the association to an independent expenditure political committee, but only if it provides the recipient's treasurer with a written statement disclosing the original source of the contributed funds. Minn. Stat. § 10A.27, subd. 15 (2010).

The information that must be disclosed by the association includes the name, address, and amount attributable to each individual or association that paid dues or fees to the association or made contributions to the association that, in total, aggregate \$1,000 or more of the

contribution. The disclosure statement must identify the total amount of the contribution received from individuals or associations not subject to itemization. Minn. Stat. § 10A.27, subd. 15 (2010).

The Campaign Finance and Public Disclosure Board adopted a statement of guidance on October 4, 2011 that further defines “when money is given to an association is considered to be for the purpose of promoting or defeating a ballot question.”¹ The NOMMMF is required to disclose the name of individual contributors if the solicitation includes an express request and implied request to support or oppose a ballot question.

In fact, the very first sentence of the statement of guidance memo states, “Contributions received by an association must be reported regardless of whether (a) the association is a political committee, party unit, or principal campaign committee; or (b) the association reports on its political activity through a political fund account.” This statement should have left no doubt in the mind of the MFCPF that they were required to disclose contributions made as an express request or its functional equivalent.

The treasurer of a ballot committee that files a report without including the complete statement required under Section 10A.27, subdivision 15 is subject to a civil penalty of up to four times the amount of the contribution for which disclosure was not filed, but not to exceed \$25,000 except when the violation was intentional. Minn. Stat. § 10A.27, subd. 17 (2010).

3. Failing to properly disclose in-kind contribution to Minnesota for Marriage.

On the National Organization for Marriage website² and in two email solicitations [attachment C & D], NOM provides a paid advertisement to Minnesota for Marriage in soliciting its members for contributions. This in-kind contribution is not reported on its 56 Day Pre-Primary report.

Requested Actions

1. Expedited Consideration

Because the issues raised in this complaint involve interpretation of laws that could have widespread application and a material impact on the conduct of the upcoming election by independent organizations, the CFDB should consider this complaint on an expedited basis.

¹ Statement of Guidance, October 4, 2011 *Providing guidance to Board staff in implementing the determination of "contribution" under Chapter 10A as applied to associations making expenditures to promote or defeat a ballot question.*

² https://actright.com/donate.php/Stand_for_marriage_america/0

2. Penalties

In sum, Common Cause Minnesota asks the Minnesota Campaign Finance Disclosure to find that National Organization for Marriage Minnesota Marriage Fund has violated Sections 10A.025, 10A.27 subdivision 15 and 10A.20 of the Minnesota Statutes.

We urge the Campaign Finance and Public Disclosure Board to assess the following penalties:

- Assess a civil penalty of \$60,000 for violating Section 10A.27 subdivision 15 by failing to disclose source contributions that were clearly solicited to promote or defeat a ballot amendment.
- Assess a civil penalty of \$3,000 for filing a false statement.

Considering the nature of the scheme and the intent of the parties to hide the source of contributions, we encourage the CFDB to seek the maximum penalties to send a clear message that these attempts to undermine disclosure will not be tolerated.

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