

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

.....
June 5, 2019
Room 225
Minnesota Judicial Center
.....

MINUTES

The meeting was called to order by Chair Leppik.

Members present: Flynn, Haugen, Leppik, Moilanen, Rosen, Swanson (by telephone)

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

MINUTES (May 1, 2019)

After discussion, the following motion was made:

Member Moilanen's motion: To approve the May 1, 2019, minutes as drafted.

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

CHAIR'S REPORT

A. Meeting schedule

The next Board meeting is scheduled for 10:30 a.m. on Wednesday, June 26, 2019.

EXECUTIVE DIRECTOR REPORT

Mr. Sigurdson told members that the legislature had approved the Board's change item request for an additional \$75,000 per year to maintain current staffing levels but had not approved the one-time request for \$50,000 to support development of a web-based version of Campaign Finance Reporter. Mr. Sigurdson said that the development of the web-based system would move forward but could be more difficult without the additional funds. Mr. Sigurdson stated that he would bring a fiscal year 2020 budget to the Board at the June 26, 2019, meeting for discussion and approval.

ENFORCEMENT REPORT

A. Consent Item

1. Request to withdraw registration of lobbyist Jennifer Breitinger (9098)

Mr. Olson told members that Ms. Breitinger had registered as a lobbyist for Self Esteem Brands on April 11, 2019. On May 1, 2019, Ms. Breitinger contacted Board staff and asked to withdraw her registration because she had not and would not be lobbying on behalf of Self Esteem Brands. Mr. Olson said that Ms. Breitinger would remain registered as a lobbyist for a subsidiary of Self Esteem Brands, Lifetime Fitness, Inc.

After discussion, the following motion was made:

Member Moilanen’s motion: To approve Ms. Breitinger’s request to withdraw her lobbyist registration for Self Esteem Brands.

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

B. 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>
Bradley Refsland (Pelican River WD)	\$100 LFF	Original/2018 EIS	Official was appointed in May 2017, but Board staff was not aware of appointment until late 2018. Official states the first notice he had of EIS requirement was letter mailed in March that he received in April. EIS was filed 4/22/2019.	Member Haugen	To waive the late filing fee	Roll call vote taken. All members voted in the affirmative.
Reva Chamblis (Met Council)	\$50 LFF	Original EIS	Newly appointed official completed EIS electronically. She thought she submitted it in a timely manner but actually just saved her progress.	Member Haugen	To waive the late filing fee	Roll call vote taken. All members voted in the affirmative. (Member Rosen abstained.)
Robert Cary (Attorney General’s Office)	\$100 LFF	2018 EIS	Official left public official position in May 2018 and did not receive communications from Board regarding EIS. After being reached by phone in May 2019 he promptly filed 2018 EIS.	Member Haugen	To waive the late filing fee	Roll call vote taken. All members voted in the affirmative.

John Linc Stine (MPCA)	\$100 LFF	2018 EIS	Official left public official position in January 2019 and states he did not receive communications from Board regarding EIS. After being reached by mail in May 2019 he promptly filed 2018 EIS.	Member Haugen	To waive the late filing fee	Roll call vote taken. All members voted in the affirmative.
Ali (Ali) for Minnesota (18099)	\$675 LFF	2018 year-end	Candidate thought no-change statement was filed in timely manner and his treasurer did not inform him that no-change statement was not filed. Candidate states he cannot afford to pay late filing fee.	Member Leppik	To reduce the late filing fee to \$400	Roll call vote taken. All members voted in the affirmative.
Marcus Harcus (2632)	\$1,200 LFFs	Both 2018 lobbyist reports	Principal's sole lobbyist experienced health and personal issues that caused lobbyist disbursement reports to be late. He drafted principal report on time but initially forgot to send email containing report. He is currently unable to pay total amount owed.	Member Leppik	To reduce the late filing fee to \$200	Roll call vote taken. All members voted in the affirmative.
MN Campaign for Full Legalization (7379)	\$275 LFF	2018 principal report		Member Leppik	To reduce the late filing fee to \$200	Roll call vote taken. All members voted in the affirmative.
Bill Miller (Watonwan County)	\$100 LFF	Original EIS	Official thought he had complied with EIS requirement when he took office in January 2019. He later had difficulty filing EIS electronically because he doesn't have broadband internet service at his home. EIS was filed 5/9/2019.	Member Haugen	To waive the late filing fee	Roll call vote taken. Motion passed (5 members voted aye. Member Flynn voted nay.)
Samantha Vang for House (18341)	\$2,000 LFFs	24-hour notices due 10/30/2018 & 11/5/2018	First-time candidate and the treasurer did not understand 24-hour notice requirement. Board typically reduces 24-hour notice late fees for first-time violations to \$250 per violation.	Member Flynn	To reduce the late filing fee to \$250 per notice	Roll call vote taken. All members voted in the affirmative.
Minnesotans for Bold Reform (41201)	\$2,000 LFFs	Two 24-hour notices due 8/7/2018	Treasurer filed 24-hour notices for two \$100,000 contributions dated 7/27/2019 and 8/7/2019 but forgot to file 24-hour notices for two \$2,000 contributions dated 8/6/2019. Board typically reduces 24-hour notice late fees for first-time violations to \$250 per violation.	Member Flynn	To reduce the late filing fee to \$250 per notice	Roll call vote taken. All members voted in the affirmative.

Edward Smith (Hubbard County)	\$100 LFF \$100 CP	2018 EIS	Former official who took office in 2015 forgot to file EIS and was traveling in early 2019 when letters were sent informing him EIS was not filed. He is no longer a public official.	Member Rosen	To waive the late filing fee and civil penalty	Roll call vote taken. All members voted in the affirmative.
Energy Storage Association, Inc. (7410)	\$325 LFF	2018 principal report	This is first year for which principal was required to file report, principal misunderstood requirement, and its address changed in 2019 resulting in delay in receipt of mailed notices. Because principal's sole lobbyist terminated his lobbyist registration in 2018, principal was mailed a letter in July 2018 advising it to file 2018 principal report immediately to avoid risk of matter being overlooked when report came due in March 2019. Report was filed 4/3/2019.	No motion		

C. Informational Items

1. Payment of civil penalty for late EIS

Brian Shekleton, \$100

2. Payment of late filing fee for EIS

Ronald Anderson, \$50
 Ronald Bunjer, \$50
 LeRoy Carriere, \$100
 Kevin Chamberlain, \$40
 John Glynn, \$100
 Pat Pehrson, \$5
 Chester Raguse, \$100
 Brian Shekleton, \$100

3. Payment of late filing fee for lobbyist principal report due 3/15/19

Advanced Disposal Services, \$25
 Alkermes, Inc., \$50
 Int'l Council of Shopping Centers, \$50
 MEnD Correctional Care LLC, \$150
 MN Nurses Assoc., \$275
 MN Wine & Spirits Group, \$250
 Minneapolis Federation of Teachers-Local 59, \$25
 Thomas Garrett, \$25

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

56th Senate District RPM, \$25
Ashley Kohls, \$125
MN AFL-CIO, \$25
Paul Perovich, \$25
Sean White, \$1,000

5. Payment of late filing fee for pre-primary 24-hour notice(s)

Emily's List - Minn, \$250
Pediatric Home Service PAC, \$500
Scott Flaherty, \$250
Shaun Hainey, \$250
UTU PAC-MN, \$250

6. Payment of late filing fee for pre-general 24-hour notice(s)

ACLU of MN Political Action Fund, \$200
Amalgamated Transit Union Local 1005, \$250
Iron Workers Local 512, \$250
Joint Council 32 DRIVE, \$3,000
MN Assoc. of Professional Employees Political Fund, \$350
MN State Bldg & Construction Trades Cncl Pol Fund, \$1,000

7. Payment of civil penalty for excess party unit contributions

Murray Smart, \$115

8. Payment of civil penalty for excess special source contributions

Mark Johnson, \$205
Carla Nelson, \$135

9. Payment for late filing fee for 2016 pre-primary report of receipts and expenditures

Edwin Hahn, \$8.40

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

Sean White, \$25

REVIEW OF COURT OF APPEALS DECISION, LEWISON V HUTCHINSON

Mr. Olson presented members with a memorandum regarding this matter that is attached to and made a part of these minutes. Mr. Olson said that a recent Minnesota Court of Appeals decision had determined that the disclaimer provisions in Minnesota Statutes section 211B.04 were constitutional. Mr. Olson reviewed the other issues decided in the case and said it was not clear yet whether the matter would be appealed to the Minnesota Supreme Court.

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 about recent developments in the Ellingboe, Hamer, Schoen, and Thao matters.

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 regular session of the meeting was called back to order and the chair had the following to report into regular session:

Final audit report in the matter of the Minnesota AFL-CIO political fund

Findings, conclusions, and order in the matter of Patricia Rauenhurst and Lang (Andrew) for Senate 17

Findings, conclusions, and order in the matter of the complaint of Rep. Steve Drazkowski regarding Neighbors for Ilhan (Omar)

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

Respectfully submitted,



Jeff Sigurdson
Executive Director

Attachments:

Memorandum regarding Minnesota Court of Appeals decision

Legal report

Final audit report in the matter of the Minnesota AFL-CIO political fund

Findings, conclusions, and order in the matter of Patricia Rauenhurst and Lang (Andrew) for Senate 17

Findings, conclusions, and order in the matter of the complaint of Rep. Steve Drazkowski regarding Neighbors for Ilhan (Omar)



MINNESOTA CAMPAIGN FINANCE BOARD

Date: May 29, 2019

To: Board members

From: Andrew Olson, Legal/Management Analyst

Telephone: 651-539-1190

Re: Lewison v. Hutchinson – Constitutional challenge to § 211B.04

With some exceptions, Minnesota Statutes section 211B.04 requires the inclusion of a disclaimer on campaign material, which must contain the name of the campaign committee and its address or website URL. Section 211B.01 defines “campaign material” to mean “any literature, publication, or material that is disseminated for the purpose of influencing voting at a primary or other election, except for news items or editorial comments by the news media.”

In March 2017, a candidate for Hennepin County Sheriff paid for the production of four prototype lawn signs and gave two of those signs to individuals who then displayed them on their lawn for several months. The signs stated “Elect Hutch for Hennepin County Sheriff” and lacked a disclaimer. A complaint was filed with the Office of Administrative Hearings in August 2018. An OAH panel ultimately found that David Hutchinson and his candidate committee violated section 211B.04 and imposed a penalty of \$200.¹ Mr. Hutchinson and his committee appealed the decision to the Minnesota Court of Appeals.

Mr. Hutchinson challenged the constitutionality of section 211B.04 on First Amendment grounds, argued that the complaint was barred by the statute of limitations, and challenged two additional legal conclusions reached by the OAH panel. On May 13, 2019, the Court of Appeals rendered its decision, affirming the OAH panel. Because there is no equivalent statute of limitations within chapter 10A, that aspect of the decision is not reviewed below.

Constitutionality of § 211B.04

Mr. Hutchinson argued that section 211B.04 violates the First Amendment while citing to *Riley v. Jankowski*² and *McIntyre v. Ohio Elections Comm'n*.³ The court noted that those cases concerned the right of individuals to speak, and to speak anonymously, while the case before the court involved the speech of a political candidate and his committee. Because section 211B.04 only applies to those required to register or report under chapters 10A or 211A, the court found the disclaimer requirement to be constitutional based on longstanding United States Supreme Court precedent. Mr. Hutchinson also asserted that section 211B.04 “unfairly burdens a first-time candidate such as himself.” The court disagreed, stating that “[d]ifficulty learning the applicable laws does not make compliance with the laws themselves unfairly onerous.”

¹ [Lewison v. Hutchinson, OAH No. 68-0325-35511 \(Sept. 25, 2018\), at 4.](#)

² [Riley v. Jankowski, 713 N.W.2d 379 \(Minn. Ct. App. 2006\).](#)

³ [McIntyre v. Ohio Elections Comm'n, 514 U.S. 334 \(1995\).](#)

Definition of Campaign Material

Mr. Hutchinson argued that the signs were not campaign material because they were prototypes, thus they were not disseminated with the intent to influence voting. The court disagreed, noting that the signs remained displayed for at least eight months and no action was taken to add a disclaimer or replace those signs with other signs containing a disclaimer.

Exemption Under § 211B.04, subd. 3 (a)

Mr. Hutchinson argued that the signs did not need to contain a disclaimer because they were “fund-raising tickets, business cards, personal letters, or similar items that are clearly being distributed by the candidate.” The court rejected that argument, stating:

A lawn sign urging readers to vote for a political candidate is not connected to the candidate’s person in any way; anyone could independently declare support for a candidate by placing a sign in public view. In this way, a lawn sign is unlike those items listed as examples in Minn. Stat. § 211B.04, subd. 3(a), which, by their nature, identify their origin—“fund-raising tickets, business cards, [and] personal letters.” The record supports the OAH’s determination that Hutchinson’s lawn signs were not clearly distributed by him.

**CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD
June 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
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			Board is working on the matter. Placed on hold.
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	3/27/19			Returned the Acknowledgment of Receipt
Katy Humphrey, Kelli Latuska	Duluth DFL	Unfiled 2016 Year- End Report of Receipts and Expenditures	\$1,000 LF \$1,000 CP	3/6/18	8/10/18			Board is working on the matter. Placed on hold. 3/5/19
Christopher John Meyer	Meyer for Minnesota	2016 Year-End Report of Receipts and Expenditures	\$1,000 LF \$1,000 CP	7/28/17	9/6/17			

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
Dan Schoen		2017 Annual Statement of Economic Interest	\$100 LF \$1,000 CP	1/28/19	3/27/19			
Kaying Thao	Friends of Kaying	2017 Year-End Report of Receipts and Expenditures	\$1,000 LF \$1,000 CP	7/10/18	8/10/18			Personal Service was effected on April 4

CLOSED 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	3/27/19			Committee has filed required report. Closed.
Bryan Klabunde	Klabunde for MN House	Unfiled 2017 Year- End Report of Receipts and Expenditures	\$1,000 LF \$1,000 CP	9/4/18	11/2/18			Committee has filed required report. Closed.

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

FINAL AUDIT REPORT

AUDIT OF MINNESOTA AFL-CIO POLITICAL FUND (REG. NO. 30025) FOR 2015 BALANCE ADJUSTMENT:

The Minnesota AFL-CIO political fund is a political fund registered with the Minnesota Campaign Finance and Public Disclosure Board. In May 2016, the fund asked Board staff for help reconciling a discrepancy of \$20,875.02 between its December 31, 2015, account balance and its 2015 year-end report balance. The fund planned to ask for a balance adjustment if the discrepancy could not be fully reconciled.

Board staff's initial review of the fund's account showed that there were several errors on the fund's 2010 report. Board staff therefore determined that the reconciliation should begin with the year 2010 and work forward. Staff from both the Board and the fund examined all of the fund's financial transactions for the years 2010 through 2015 and identified specific discrepancies between the account and the fund's reports for each year.

By December 2017, all the discrepancies had been reconciled except for those involving the fund's 2012 and 2014 independent expenditures. In March 2018, Board staff asked the fund to use internal records to reconcile the 2014 independent expenditure discrepancies and to obtain copies of invoices from vendors if internal records were not available.

The fund was able to use its records to reconcile the 2014 independent expenditure discrepancies and to determine the amendments necessary to correctly disclose those expenditures on its 2014 report. The records showed that the 2014 discrepancies were due, in part, to the double-reporting of some expenses as both general expenditures and independent expenditures. The fund also had misallocated some multi-candidate independent expenditures, incorrectly reported some independent expenditures as general expenditures, and incorrectly reported some in-kind independent expenditures as cash expenditures.

The fund then used its records for 2012 to reconcile the independent expenditure discrepancies for that year and to determine the amendments necessary to correctly disclose those expenditures on its 2012 report. The fund discovered that the 2012 discrepancies also were caused by double-reporting or incorrectly reporting some independent expenditures and by misallocating some multi-candidate independent expenditures.

The fund has filed amended reports for the years 2010 through 2015 that correctly disclose all of its transactions in those years. A spreadsheet comparing the amounts on the fund's original reports, its amended reports, and its account balances for the years 2010 through 2015 is attached to this audit report as Exhibit 1.

Exhibit 1 shows that \$20,563.18 of the original \$20,875.02 discrepancy has been resolved by the amendments to the fund's reports. The fund has reviewed its records and cannot identify the source of the remaining \$311.84 discrepancy. Reducing the balance on the fund's 2015 amended year-end report by \$311.84 will eliminate the discrepancy between that report and the fund's account for 2015 and for subsequent years.

Jodi Pope, legal/management analyst, was the primary Board employee responsible for conducting the audit. During the course of the audit, the Minnesota AFL-CIO political fund submitted numerous responses to Board requests for information. These responses included financial records, spreadsheets of discrepancies, documents describing discrepancies and their resolution, and draft amended reports.

Audit finding:

The Minnesota AFL-CIO political fund had a discrepancy of \$20,875.02 between its reported 2015 year-end balance and the balance in its account on December 31, 2015. The fund used its records to file amended reports that resolve \$20,563.18 of this discrepancy. The fund cannot resolve the remaining discrepancy and has asked for a balance adjustment of \$311.84 so that the balance on its amended year-end 2015 report of receipts and expenditures will match the balance in its account on December 31, 2015. The Board approves the balance adjustment of \$311.84 and decreases the balance on the fund's 2015 amended year-end report from \$1,731.17 to \$1,419.33.

The Minnesota AFL-CIO political fund must file amended year-end reports for 2016, 2017, and 2018 that reflect the new beginning and ending cash balances for each year. All reports must be filed within 30 days of the date of this order.

/s/ Margaret Leppik
Margaret Leppik, Chair
Campaign Finance and Public Disclosure Board

Date: June 5, 2019

Exhibit 1 - Report Summary - Minnesota AFL-CIO political fund (Reg No 30025)

	Original Report	2019 Amended	Account	Difference	
	(A3)	Report		Amended to	
2010				Account	Notes
Beginning Balance	19,394.00	12,888.85	12,888.85	0.00	
Receipts	284,460.24	283,614.24	283,614.46	(0.22)	
Non-IE Expenditures	(126,974.74)	(129,448.39)			
IE Expenditures	(156,688.23)	(143,088.23)			
Expenditures	(283,662.97)	(272,536.62)	(271,961.02)	575.60	Fund unable to find explanation for extra \$575.60 in expenses on report
Ending Balance	20,191.27	23,966.69	24,542.29	(575.60)	
	Original Report	2019 Amended	Account	Difference	
		Report		Amended to	
2011				Account	Notes
Beginning Balance	20,191.27	23,966.69	24,542.29	(575.60)	
Receipts	1,800.00	3,010.46	3,010.46	0.00	
Non-IE Expenditures	(2,750.00)	(2,893.52)			
IE Expenditures	(810.46)	(810.46)			
Expenditures	(3,560.46)	(3,703.98)	(3,583.81)	(120.17)	
Ending Balance	18,430.81	23,273.17	23,968.94	(695.77)	Difference is \$575.60 from 2010 plus \$120.17 check in transit at end of year
	Original Report	2019 Amended	Account	Difference	
	(A1)	Report		Amended to	
2012				Account	Notes
Beginning Balance	18,430.81	23,273.17	23,968.94	(695.77)	
Receipts	473,328.66	473,328.66	473,328.66	0.00	
Non-IE Expenditures	(425,008.53)	(408,624.86)			
IE Expenditures	(62,183.39)	(76,337.47)			
Expenditures	(487,191.92)	(484,962.33)	(485,082.49)	(120.16)	Part of discrepancy is \$120.17 check in transit at beginning of year
Ending Balance	4,567.55	11,639.50	12,215.11	(575.61)	
	Original Report	2019 Amended	Account	Difference	
	(A6)	Report		Amended to	
2013				Account	Notes
Beginning Balance	4,567.00	11,639.50	12,215.11	(575.61)	A6 amendment inexplicably reduced beg bal by .55
Receipts	94,318.20	45,518.20	45,518.20	0.00	A6 amendment mistakenly included \$48,250 in miscellaneous income from uncashed check that actually had been cashed.
Non-IE Expenditures	(44,941.74)	(46,450.83)			
IE Expenditures	(4,738.35)	(4,738.35)			
Expenditures	(49,680.09)	(51,189.18)	(51,189.18)	0.00	
Ending Balance	49,205.11	5,968.52	6,544.13	(575.61)	Without extra \$48,250 in income, balance on original report would have been \$955.11
	Original Report	2019 Amended	Account	Difference	
	(A3)	Report		Amended to	
2014				Account	Notes
Beginning Balance	49,205.11	5,968.52	6,544.13	(575.61)	
Receipts	456,901.12	456,901.12	456,901.12	0.00	
Non-IE Expenditures	(399,669.37)	(350,780.09)			
IE Expenditures	(83,192.21)	(109,408.08)			
Expenditures	(482,861.58)	(460,188.17)	(461,075.62)	(887.45)	
Ending Balance	23,244.65	2,681.47	2,369.63	311.84	
	Original Report	2019 Amended	Account	Difference	
		Report		Amended to	
2015				Account	Notes
Beginning Balance	23,244.65	2,681.47	2,369.63	311.84	
Receipts	18,200.80	18,200.80	18,200.80	0.00	
Non-IE Expenditures	(19,094.60)	(19,094.60)			
IE Expenditures	(56.50)	(56.50)			
Expenditures	(19,151.10)	(19,151.10)	(19,151.10)	0.00	
Ending Balance	22,294.35	1,731.17	1,419.33	311.84	

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

FINDINGS, CONCLUSIONS, AND ORDER

IN THE MATTER OF PATRICIA RAUENHORST AND THE LANG (ANDREW) FOR SENATE 17 COMMITTEE

The Lang (Andrew) for Senate 17 committee is the principal campaign committee of Senator Andrew Lang. Patricia Rauenhorst has served as the committee's treasurer since July 2016. On January 31, 2019, Ms. Rauenhorst filed a paper no-change statement in lieu of a 2018 year-end report, stating that the committee had not received any contributions or made any expenditures in 2018. The no-change statement did not list the committee's cash balance, which is required information on a no-change statement. Board staff emailed Ms. Rauenhorst to inform her that the committee's ending cash balance was required to complete the no-change statement. After no response was received from Ms. Rauenhorst, staff sent a letter advising that the committee would incur a late filing fee if it failed to file an amendment by March 20, 2019. On March 15, 2019, an amended 2018 year-end report was filed via the Board's Campaign Finance Reporter (CFR) software, disclosing that the committee had received \$7,747 in contributions and made \$1,605 in expenditures in 2018. This report would have incurred a \$750 late filing fee if Ms. Rauenhorst had not filed the no-change statement on the January 31 deadline.

On April 24, 2019, Board staff notified Ms. Rauenhorst that the Board would consider opening an investigation regarding the matter at its meeting on May 1, 2019. In addition to a written notice, Ms. Rauenhorst was given a copy of the written materials provided to Board members in advance of the meeting requesting that the Board order a formal investigation of the matter pursuant to Minnesota Statutes section 10A.022, subdivision 3d, and Minnesota Rules 4525.0340, subpart 2. Those materials stated that Ms. Rauenhorst might have violated Minnesota Statutes section 10A.025, subdivision 2, paragraph (b), by falsely certifying the no-change statement to be complete, true, and correct.

Ms. Rauenhorst appeared before the Board in executive session on May 1, 2019, and also provided a written statement. Ms. Rauenhorst acknowledged that she had filed the no-change statement despite being aware that contributions were received and expenditures were made by the committee in 2018. She explained that her computer had malfunctioned just prior to the report being due, so she did not have access to the financial data she had entered previously into the CFR software and filed a no-change statement, knowing that she could later file an amended report. Ms. Rauenhorst stated that she never told Senator Lang that she had computer problems or that she had filed a no-change report. On May 1, 2019, the Board directed the executive director to open a staff review pursuant to Minnesota Rules 4525.0340, subpart 2.

Analysis

Minnesota Statutes section 10A.20, subdivision 3, requires reports of receipts and expenditures to include all contributions received and all expenditures made during the reporting period. Minnesota Statutes section 10A.20, subdivision 7, provides that when a committee "has no receipts or expenditures during a reporting period, the treasurer must file with the board at the time required by this section a

statement to that effect.” The no-change statement filed by Ms. Rauenhorst failed to disclose any of the contributions received or expenditures made by the committee in 2018.

When a committee becomes aware of an error or omission in a report previously filed with the Board, Minnesota Statutes section 10A.025, subdivision 4, requires the committee to file an amended report within 10 days of becoming aware of the inaccuracy. Submission of an amended report that accurately corrects the error or omission resolves a violation of the reporting requirements in Minnesota Statutes section 10A.20. The amended 2018 year-end report filed on March 15, 2019, corrected the omissions of the no-change statement.

Minnesota Statutes section 10A.025, subdivision 2, paragraph (b), states that “[a]n individual shall not sign and certify to be true a report or statement knowing it contains false information or knowing it omits required information.” Minnesota Statutes section 10A.025, subdivision 2, paragraph (d), provides that “[a] person who violates paragraph (b) or (c) is subject to a civil penalty imposed by the board of up to \$3,000. A violation of paragraph (b) or (c) is a gross misdemeanor.” Minnesota Statutes section 10A.025, subdivision 2, paragraph (e), states that “[t]he board may impose an additional civil penalty of up to \$3,000 on the principal campaign committee . . . that is affiliated with an individual who violated paragraph (b) or (c).”

Based on the above analysis, the Board makes the following:

Findings of Fact

1. Patricia Rauenhorst has served as treasurer for the Lang (Andrew) for Senate 17 committee since July 2016.
2. On January 31, 2019, Ms. Rauenhorst filed a no-change statement on behalf of the committee, falsely stating that the committee received no contributions and made no expenditures in 2018.
3. On March 15, 2019, an amended 2018 year-end report of receipts and expenditures was filed via the CFR software, disclosing that the committee received \$7,747 in contributions and made \$1,605 in expenditures in 2018.
4. If the no-change statement had not been filed on January 31, 2019, the report filed on March 15, 2019, would have accrued a late filing fee of \$750.
5. Ms. Rauenhorst has acknowledged that she certified the no-change statement to be complete, true, and correct, knowing that it was false and omitted required information.
6. Nothing in the record indicates that Senator Lang knew that Ms. Rauenhorst filed an incomplete or inaccurate report.

Based on the analysis and the findings of fact, the Board makes the following:

Conclusions of Law

1. The Lang (Andrew) for Senate 17 committee violated Minnesota Statutes section 10A.20, subdivision 3, when it initially failed to disclose any of the contributions received and expenditures made by the committee in 2018. That violation was remedied by the filing of an amended 2018 year-end report on March 15, 2019.
2. Patricia Rauenhorst violated Minnesota Statutes section 10A.025, subdivision 2, paragraph (b), by certifying the no-change statement filed January 31, 2019, to be complete, true, and correct, while knowing that it was false and omitted required information.

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

Order

1. A civil penalty in the amount of \$150 is assessed against Patricia Rauenhorst for violating Minnesota Statutes section 10A.025, subdivision 2, paragraph (b).
2. A civil penalty in the amount of \$750 is assessed against the Lang (Andrew) for Senate 17 committee pursuant to Minnesota Statutes section 10A.025, subdivision 2, paragraph (e). This penalty is assessed due to the violation of Ms. Rauenhorst, the committee's treasurer, and because the committee would have incurred a late filing fee of \$750 if the no-change statement had not been filed.
3. If Ms. Rauenhorst and the Lang (Andrew) for Senate 17 committee do not comply with the provisions of this order, the Board's executive director may request that the attorney general bring an action on behalf of the Board for the remedies available under Minnesota Statutes section 10A.34.
4. The investigation of this matter is concluded and hereby made a part of the public records of the Board pursuant to Minnesota Statutes section 10A.022, subdivision 5.

/s/ Margaret Leppik
Margaret Leppik, Chair
Campaign Finance and Public Disclosure Board

Date: June 11, 2019

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

**FINDINGS, CONCLUSIONS, AND ORDER IN THE MATTER OF THE COMPLAINT OF STEVE DRAZKOWSKI
REGARDING THE NEIGHBORS FOR ILHAN (OMAR) COMMITTEE**

1. Background

On July 19, 2018, the Minnesota Campaign Finance and Public Disclosure Board¹ received a complaint submitted by Rep. Steve Drazkowski regarding the Neighbors for Ilhan (Omar) committee (Omar committee). The Omar committee is the principal campaign committee of Rep. Ilhan Omar.²

The complaint described a \$2,250 payment to the Kjellberg Law Office on November 20, 2016, that was reported on the Omar committee's 2016 year-end report of receipts and expenditures. The complaint further stated that Carla C. Kjellberg of the Kjellberg Law Office served as the attorney of record in Rep. Omar's 2017 marital dissolution. The complaint alleged that the committee's payment to the Kjellberg Law Office was for services related to the marital dissolution, and therefore constituted conversion of committee funds to personal use in violation of Minnesota Statutes section 211B.12.

On July 24, 2018, the Board chair determined that the complaint alleged a prima facie violation of Minnesota Statutes section 211B.12. Both the Omar committee and Rep. Drazkowski provided written responses for the Board to consider for the probable cause determination. Rep. Drazkowski's August 2, 2018, response was treated as a supplement to his July 19, 2018, complaint. In the supplement, Rep. Drazkowski alleged that the Omar committee's 2016 year-end report of receipts and expenditures did not include sufficient information to justify the classification of the payment to the Kjellberg Law Firm as a noncampaign disbursement, in violation of Minnesota Rules 4503.0900, subpart 3. The supplemental complaint relied on public statements made by lawyer Carla Kjellberg to allege that the Omar committee's report violated Minnesota Statutes section 10A.20, by failing to disclose the payment to the Kjellberg Law Firm when it was incurred and failing to show that the payment was a reimbursement.

On August 7, 2018, the Board vice chair determined that the supplemental complaint alleged prima facie violations of Minnesota Rules 4503.0900 and Minnesota Statutes section 10A.20. On August 16, 2018, the Board found probable cause to initiate an investigation regarding the

¹ The Board has six members, none of whom may be an active lobbyist, a state elected official, or an active candidate for state office. The Board is not non-partisan, rather it is multi-partisan with no more than three of the six members supporting the same political party. See Minn. Stat. § 10A.02, subd. 1. The Board employs nine full-time staff members and oversees four major programs: campaign finance registration and disclosure, public subsidy administration, lobbyist registration and disclosure, and economic interest disclosure by public officials.

² Representative Ilhan Omar's committee, Neighbors for Ilhan (Omar), is for the Minnesota House of Representatives District 60B. In 2018, Rep. Omar was elected to the United States House of Representatives from Minnesota's Fifth Congressional District. This matter only relates to Rep. Omar's state candidate committee, Neighbors for Ilhan (Omar).

Omar committee's possible violations of Minnesota Statutes sections 10A.20 and 211B.12 and Minnesota Rules 4503.0900 based on the July 19, 2018, complaint and supplement. The August 16, 2018, probable cause determination combined all matters into one investigation because they involved the same facts.

At the outset of the investigation, Board staff reviewed the Omar committee's 2017 year-end report of receipts and expenditures and discovered multiple noncampaign disbursements and one campaign expenditure relating to Rep. Omar's out-of-state travel. The noncampaign disbursements were for airfare, hotel accommodations, and other expenses related to attending five out-of-state events, all categorized as expenses of serving in public office. The Omar committee's 2017 year-end report stated that the campaign expenditure was for airfare "to Boston to speak at rally," which may have been to support a local candidate in violation of Minnesota Statutes section 10A.27, subdivision 9. It was not clear from the report that the travel expenses were permitted noncampaign disbursements or permitted campaign expenditures under Minnesota Statutes section 211B.12. As required by Minnesota Statutes section 10A.022, subdivision 3, paragraph (b), Board staff sought approval from the Board to expand the investigation to include the 2017 out-of-state travel. The Omar committee was notified of staff's intent to bring the 2017 out-of-state travel expenses before the Board. On September 25, 2018, the Omar committee submitted a response about Rep. Omar's out-of-state travel. On October 3, 2018, the Board found probable cause to expand the investigation to include the out-of-state travel and the Omar committee's possible violations of Minnesota Statutes sections 10A.27, subdivision 9, and 211B.12.

On October 8, 2018, the Board received another complaint from Rep. Drazkowski regarding the Neighbors for Ilhan (Omar) committee. This new complaint alleged violations of Minnesota Statutes Chapters 10A and 211B that were not raised in the earlier complaint, specifically that the Omar committee's 2017 year-end report of receipts and expenditures showed several out-of-state trips paid for by the committee and that such disbursements should not be allowed as campaign expenditures or noncampaign disbursements. The second complaint alleged that Rep. Omar's trip to Boston was to support a local candidate there in violation of Minnesota Statutes section 10A.27, subdivision 9. The other allegations were similar to the travel issues that were the subject of the expanded investigation authorized by the Board. Although the Board already had expanded the investigation to include the 2017 out-of-state travel expenses, Minnesota Statutes section 10A.022, subdivision 3, paragraph (c), required a prima facie determination on the new complaint submitted by Rep. Drazkowski. On October 12, 2018, the Board chair determined that the new complaint from Rep. Drazkowski alleged prima facie violations of Minnesota Statutes sections 10A.27 and 211B.12. On November 7, 2018, the Board found probable cause existed that warranted an investigation of the Omar committee's possible violations of Minnesota Statutes sections 10A.27, subdivision 9, and 211B.12.

2. The investigation

The required notices of the probable cause determinations and the investigation were provided to Rep. Drazkowski directly and to the Omar committee through its attorney. During the course of the investigation, the Board conducted sworn interviews with Elizabeth Loeb, treasurer of the Omar committee in 2016 and 2017; Carla Kjellberg, attorney for the Omar committee in 2016; Rep. Ilhan Omar, the candidate; Sonia Neculescu, district director/campaign manager of the committee; Connor McNutt, legislative aide to Rep. Omar; Matthew Gehring, staff coordinator for the Minnesota House of Representatives Research Office; and Patrick McCormack, director of the Minnesota House of Representatives Research Office. Over the course of the investigation, the Board requested documents on multiple occasions from the Omar committee. In response to the Board's request, the Omar committee provided copies of emails and a written response from Claudia Anderson, the former bookkeeper of the Omar committee. In the course of the investigation, participation by the Omar committee was both voluntary and cooperative. Lastly, an attorney for the Omar committee addressed the Board at the June 5, 2019, Board meeting.

3. Applicable statutes, administrative rules, and prior Board actions

Minnesota Statutes section 211B.12 provides that “[u]se of money collected for political purposes is prohibited unless the use is reasonably related to the conduct of election campaigns, or is a noncampaign disbursement as defined in Minnesota Statutes section 10A.01, subdivision 26.” The statute also provides that “[m]oney collected for political purposes . . . may not be converted to personal use.”

Minnesota Statutes section 10A.34, subdivision 4, provides that the Board may impose a civil penalty of up to \$3,000 per violation on the person responsible for the conversion of funds to personal use.

Minnesota Statutes section 10A.01, subdivision 9, provides that campaign expenditure “means a purchase or payment of money . . . made or incurred for the purpose of influencing the nomination or election of a candidate.”

Minnesota Statutes section 10A.01, subdivision 26, paragraph (a), clause (10), provides that noncampaign disbursements by a principal campaign committee include payment for the candidate's expenses for serving in public office. Travel expenses can fall within this category when the reason for the candidate's attendance at the event is to help the candidate in the performance of the duties of the office held and the candidate would not have attended the event if the candidate were not an office holder; however, the sole purpose of travel outside the candidate's district cannot be for the candidate to build relationships. See Findings in the matter of the People for (Gregory) Davids Committee (Aug. 15, 2006); Findings in the matter of the Joe

Hoppe Volunteer Committee (May 27, 2016); Advisory Opinion 277 (Oct. 31, 1997); Advisory Opinion 383 (Aug. 15, 2006).³

The Board notes that in a previous advisory opinion the Board found that the cost of an international trip could not be paid for with campaign committee funds as either a campaign expenditure or a noncampaign disbursement. However, in that opinion the elected official was not traveling to attend a conference related to legislative issues of concern to Minnesota. Instead, the travel was organized as an opportunity to learn about concerns and challenges facing another country. See Advisory Opinion 390 (Nov. 28, 2006).⁴

Minnesota Statutes section 10A.01, subdivision 26, paragraph (a), clause (1), provides that accounting and legal fees related to the campaign committee are a permitted noncampaign disbursement. Legal fees may be paid for with committee funds if the services relate to the candidate's chances of election and the candidate does not personally benefit from the services. See Advisory Opinion 328 (June 26, 2001); Advisory Opinion 318 (Oct. 13, 1999).

Chapter 10A has several provisions relating to recordkeeping and reporting. Minnesota Statutes section 10A.20, subdivision 4, states in relevant part, "[a] report must cover the period from January 1 of the reporting year to seven days before the filing date." Minnesota Statutes section 10A.20, subdivision 3, paragraph (j), requires that the reporting entity disclose unpaid bills on a report of receipts and expenditures as those bills are incurred. Minnesota Rules 4503.0900, subpart 3, states that "[i]temization of an expense which is classified as a noncampaign disbursement must include sufficient information to justify the classification."

Minnesota Statutes section 10A.20, subdivision 13, provides that when a committee reimburses someone for an expenditure, the committee can report that reimbursement in one of two ways: 1) report the expenditure or noncampaign disbursement as if it was paid directly to the vendor who sold the good or service used; or 2) report the name and address of the person being reimbursed as the payee and include the name and address of the vendor from which the person being reimbursed bought the good or service.

Finally, Minnesota Statutes section 10A.27, subdivision 9, paragraph (d), bars a state candidate or treasurer from making "a contribution from the principal campaign committee to a candidate for political subdivision office in any state."

4. Standard of proof and burden of proof

The standard of proof applicable to this matter is the preponderance of the evidence standard. Under that standard, the Board must be convinced by the evidence and the reasonable inferences that may be drawn from that evidence that it is more likely that a particular fact exists than that it does not exist. If the evidence on a particular matter is equally balanced, any finding

³ In 2018, Minnesota Statutes section 10A.173, subdivision 4, codified these provisions into statute. The changes were not effective until June 1, 2018, and therefore do not apply in this case.

⁴ Minnesota Statutes Chapters 10A and 211B do not specifically prohibit international travel.

based on that evidence is not proven by a preponderance of the evidence. See Findings in the matter of the complaint of Brian Wojtalewicz regarding Tim Miller, Citizens for Tim Miller, Southern Minnesota Beet Sugar Cooperative PAC, and Renville County Republican Party of Minnesota (Jan. 9, 2018).

In investigations involving Minnesota Statutes section 211B.12, the committee that spent the money has the burden of proving, by a preponderance of the evidence, that the expenditure was for a purpose allowed under that statute. Therefore, regarding the claimed noncampaign disbursements at issue in the present case, the Omar committee has the burden of proving the disbursements were for a purpose allowed under Minnesota Statutes section 211B.12. See Findings in the matter of the John Lesch for State Representative Committee (Aug. 1, 2017).

5. Analysis

2016 LEGAL FEES

The complaint alleged that the Omar committee used campaign funds to pay for her marital dissolution because the committee's 2016 year-end report of receipts and expenditures showed a \$2,250 payment to the Kjellberg Law Office in 2016 for "legal fees." The Omar committee's report did not include sufficient information to show that the expense was a noncampaign disbursement, as required by Minnesota Rules 4503.0900, subpart 3.

During the investigation, the Omar committee provided responses explaining that after Rep. Omar won the primary for Minnesota House of Representatives District 60B in August 2016, a blog posted an article with allegations that Rep. Omar was not married to the person she referred to as her husband, and that she was actually married to her brother as part of an immigration scheme. The Omar committee created a crisis committee to respond to the allegations. The crisis committee included Carla Kjellberg, an attorney who represented Rep. Omar and the Omar committee with respect to the crisis. Ms. Kjellberg also represented Rep. Omar in Rep. Omar's marital dissolution. Ms. Kjellberg and some in the crisis committee believed that the allegations required a response and that they needed to see what was in Rep. Omar's immigration and financial records in order to prepare that response. At some point, there were media reports that the U.S. Attorney's Office was investigating the immigration status of Rep. Omar. On August 22, 2016, the U.S. Attorney's Office issued a statement that it was not investigating, nor had it requested an investigation into Rep. Omar.

The Omar committee provided additional information showing that the \$2,250 payment from the committee was reimbursement for two payments that the Kjellberg Law Office had made purportedly as part of its crisis management legal services for the committee. The additional information included two invoices that the Kjellberg Law Office had mailed to Rep. Omar directly, not to the Omar committee. The first was mailed on August 31, 2016, and asked for reimbursement of a \$1,500 payment that the Kjellberg Law Office had made to the accounting firm of Frederick & Rosen, Ltd. The second was mailed on September 30, 2016, and asked for

reimbursement of a \$750 payment that the Kjellberg Law Office had made to the law firm of De Leon & Nestor, LLC.

The invoices showed that the law firm of De Leon & Nestor, LLC had billed the Kjellberg Law Office \$750 for obtaining Rep. Omar's immigration records directly from the federal government. Rep. Omar's family already had copies of these records. However, the crisis committee asked for them directly from the federal government so that it could show that the records had been independently obtained and reviewed. Obtaining copies of the records directly from the federal government therefore benefitted the Omar committee and provided no personal benefit to Rep. Omar. The \$750 reimbursement payment from the Omar committee to the Kjellberg Law Office for the De Leon & Nestor invoice therefore was properly classified as a noncampaign disbursement.

The invoices also showed that the accounting firm of Frederick & Rosen, Ltd. had billed the Kjellberg Law Office \$1,500 for services for "Hirsi/Omar 2015 & 2014" on September 1, 2016. While the initial purpose of retaining Frederick & Rosen may have been to obtain and review financial records, Ms. Kjellberg stated that there was some personal benefit to Rep. Omar from the services as there was an issue with her tax returns that needed to be corrected regardless of her status as a candidate. In their depositions, neither Ms. Kjellberg nor Rep. Omar described how the services benefitted the committee.⁵ The Omar committee later provided additional explanatory information regarding the services provided by Frederick & Rosen. The crisis committee had Frederick & Rosen prepare releases for Rep. Omar and Mr. Hirsi to sign in order for Frederick & Rosen to obtain Rep. Omar's and Mr. Hirsi's filed joint tax returns for 2014 and 2015. Frederick & Rosen then reviewed the documents obtained from the Internal Revenue Service on behalf of the Omar committee. However, there is no substantive evidence in the record to show that the services benefitted the Omar committee, and the Omar committee has failed to prove, by a preponderance of the evidence, that the services from Frederick & Rosen were a permitted noncampaign disbursement under Minnesota Statutes section 211B.12. Rep. Omar must reimburse the committee the \$1,500 that was paid to the Kjellberg Law Firm for the services from Frederick & Rosen, Ltd.

Based on the analysis above, the preponderance of the evidence indicates that the \$2,250 paid to the Kjellberg Law Office was not payment for Rep. Omar's marital dissolution.

⁵ To the contrary, Ms. Kjellberg testified in her deposition:

Question: "Do you know, did Representative Omar's committee use any of the information that Frederick & Rosen provided as part of her response?"

Answer: "Probably not. That – this was correcting something that could have been detrimental to Ms. Omar."

Question: "Would the issue that was corrected, or potentially as least corrected, through this information from the Rosen firm been important for Representative Omar to correct regardless of her status as a candidate?"

Answer: "Yes, but probably not in the sense of urgency and necessity for professionals to do."

REPORTING ISSUES

The 2016 pre-general report of receipts and expenditures covered the period from January 1, 2016, through October 24, 2016, and was due on October 31, 2016. The Omar committee was required to include any obligations incurred during this time period on its 2016 pre-general report. The Omar committee's 2016 pre-general report, however, does not include the debts owed to Frederick & Rosen, Ltd. and De Leon & Nestor, LLC, which had been invoiced to Rep. Omar prior to the October 24th cut-off date. In addition, the year-end report did not correctly report the reimbursement to the Kjellberg Law Office. The Omar committee therefore violated the reporting requirements in Minnesota Statutes section 10A.20.

2017 TRAVEL COSTS

During Rep. Omar's deposition, she stated that part of the process for deciding what trips she would make was to confirm with the Minnesota House Research Office that the travel was allowed. Staff therefore interviewed Rep. Omar's legislative aide from the Minnesota House of Representatives and two staff members of the Minnesota House Research Office to obtain information regarding the travel that Rep. Omar reported for 2017. The legislative aide testified that travel opportunities being considered by Rep. Omar were presented to House Research Office staff for review before a decision was made to undertake the travel. Confidentiality rules applicable to the Minnesota House Research Office prevent its staff members from answering specific questions posed by Board staff regarding members of that body. Therefore, the staff members deposed did not provide any information regarding travel undertaken by Rep. Omar or inquiries regarding travel from Rep. Omar's legislative staff.

However, House Research staff did explain that generally when they discuss whether a member can accept something of value, for example, travel and lodging reimbursement, from an organization or individual, they discuss whether that would violate the gift prohibition. They specifically discuss whether the gift is from a lobbyist, a lobbyist principal, or a foreign government because of the gift ban provisions of Minnesota Statutes section 10A.071 and other provisions in legislative rules applicable to Minnesota House members. They do not give advice about whether members can use campaign committee funds for travel purposes; rather, they commonly refer members to the Board for campaign committee issues. The Omar committee did not contact Board staff for information on the appropriateness of using committee funds for the travel reviewed in this investigation.

Boston Unity Rally for Deejo Jibril. Only one travel cost was reported as a campaign expenditure on the committee's 2017 year-end report: the Delta Air Lines payment of \$337.40, which was described as "to Boston to speak at rally." The Omar committee stated that the purpose of this trip was to attend a unity rally in Boston, which was a response to a white supremacy rally planned in that city. During her deposition, Rep. Omar stated that she was in Boston to attend the unity rally in opposition to the white supremacy rally and that when the white supremacy rally was cancelled, the opportunity to speak at the unity rally also was cancelled.

Rep. Omar said that someone on her staff discovered that a Boston City Council candidate was also a Muslim woman and suggested that they meet. Rep. Omar stated that the Boston City Council candidate created a campaign event that featured Rep. Omar. The event titled “Unity Rally for Deeqo Jibril with Rep. Ilhan Omar and Rep. Liz Malia in West Roxbury” was promoted on Eventbrite several days before Rep. Omar traveled to Boston. Minnesota Statutes section 10A.27, subdivision 9, bars a candidate from making “a contribution from the principal campaign committee to a candidate for political subdivision office in any state.” (Emphasis added.) Rep. Omar acknowledged that she spoke at the campaign event for a Boston City Council candidate. While Rep. Omar’s appearance in itself would not constitute a committee contribution to the Boston City Council candidate’s campaign, the expenditure of committee funds to pay for Rep. Omar to travel to Boston, thereby enabling her to speak at the candidate’s campaign event, would constitute an in-kind contribution from the Omar committee to the candidate for Boston City Council. Further, the cost of the trip would not have qualified as a noncampaign disbursement for a cost of serving in office even if Rep. Omar had spoken at the unity rally event because attending that event would not have helped Rep. Omar in the performance of her duties as a legislator. Therefore, the \$337.40 for the Boston trip must be repaid to the committee by Rep. Omar.

The remaining travel costs on the Omar committee’s 2017 year-end report were categorized as noncampaign disbursements. Minnesota Statutes section 10A.01, subdivision 26, paragraph (a), clause (10), provides that noncampaign disbursements include payment for the candidate’s expenses for serving in public office. Travel expenses can fall within this category when the reason for the candidate’s attendance at the event is to help the candidate in the performance of the duties of the office held and the candidate would not have attended the event if the candidate were not an office holder.

The European Young Leaders Conference in Estonia. The total noncampaign disbursements for this trip were \$1,700.80 for airfare (\$564.40 on Delta Air Lines, \$815.58 on Estair OU Tallin, and \$320.82 on KLM Royal Dutch Airlines). Rep. Omar’s state legislative aide, Connor McNutt, stated in his deposition that Rep. Omar’s costs to attend the conference in Estonia were originally paid for by the conference organizers. Rep. Omar gave a speech at the conference. As described in the conference agenda, several substantive sessions at the conference related to, and may have been helpful for several of the legislative issues Rep. Omar worked on while in the Minnesota House. Rep. Omar stated in her deposition that she was sick during the conference but that she attended the entire event. Mr. McNutt also stated that the travel costs paid for by the Omar committee were related to Rep. Omar missing her return flight due to that illness. Thus, the only cost to the Omar committee was the cost in securing return flights due to the inability of Rep. Omar to use the travel paid for by the conference. Under circumstances where the cost of attending the conference qualifies as a cost of serving in office the Board concludes that unavoidable costs to reschedule return flights from that conference may be paid for with committee funds.

The Girl Up UN Conference in Washington D.C. The amount reported by the committee as a noncampaign disbursement was \$581.43 for Rep. Omar's hotel stay. Rep. Omar gave a speech and was interviewed by a young woman from South America. The conference was a leadership conference for girls. While Rep. Omar would not have been asked to participate in the Girl Up UN Conference if she had not been elected to the Minnesota House, her participation did not assist Rep. Omar in the performance of her duties as a legislator. Therefore, the Omar committee could not pay the \$581.43 for hotel costs as a noncampaign disbursement. Rep. Omar must repay her committee \$581.43.

The People for the American Way's America's Cabinet meeting in New York. The committee reported a noncampaign disbursement in the amount of \$611.20 for airline fees to attend a Young Elected Officials⁶ conference. This payment, however, actually was made so that Rep. Omar could attend a planning meeting in New York regarding her participation in the People for the American Way's America's Cabinet. The America's Cabinet webpage states that its purpose is to work to educate and inform the general public about what the national government should be doing to support communities across the country.⁷ Rep. Omar attended the planning meeting in April 2017 but the America's Cabinet project was not announced publicly until January 2018. While Rep. Omar would not have been asked to participate in the America's Cabinet had she not been elected to the Minnesota House, her participation did not assist Rep. Omar in the performance of her duties as a legislator. Therefore, the Omar committee could not pay the \$611.20 for airfare as a noncampaign disbursement. Rep. Omar must repay her committee \$611.20.

The National Immigrant Justice Center Human Rights Awards in Chicago. The reported noncampaign disbursement for this event was \$232.20 for airfare. Rep. Omar was the keynote speaker at the organization's annual Human Rights Awards luncheon and received the Jeanne and Joseph Sullivan Award. The website for the National Immigrant Justice Center states that the annual Human Rights Awards luncheon "draws more than 800 Attendees and provides critical funding for NIJC to ensure that it can continue to promote human rights and access to justice for immigrants."⁸ While Rep. Omar would not have been the recipient of the award or the keynote speaker at the event had she not been elected to the Minnesota House, this event was clearly a fundraising event for the National Immigrant Justice Center. Additionally, attending the event did not assist Rep. Omar in the performance of her duties as a legislator. Therefore, the Omar committee could not pay the \$232.20 for airfare as a noncampaign disbursement. Rep. Omar must repay her committee \$232.20.

The African Network of Southwest Florida's Annual Gala in Fort Myers (referred to on the 2017 year-end report as the Somali New Arrival Conference). The committee reported a noncampaign disbursement in the amount of \$207 for airline fees to attend the "Somali New Arrivals Conference." The committee acknowledges that this was incorrect, as Rep. Omar

⁶ The Young Elected Officials Network is a leadership development program of the organization People for the American Way.

⁷ <http://www.pfaw.org/campaign/americas-cabinet/>

⁸ <https://immigrantjustice.org/calendar/nijc-human-rights-awards>

attended the African Network of Southwest Florida's Annual Gala.⁹ Rep. Omar was the keynote speaker at the organization's annual gala, which was a fundraiser for the organization. Rep. Omar was also paid \$800 for her speech at the event.¹⁰ Although Rep. Omar might not have been the keynote speaker at this event had she not been elected to the Minnesota House, she did not attend this event to assist her in the performance of her duties as a legislator. Therefore, the Omar committee could not pay the \$207 airfare as a noncampaign disbursement. Rep. Omar must repay her committee \$207 for this expense.

Based on the body of evidence before it, the Board makes the following:

Findings of fact

1. Neighbors for Ilhan (Omar) is the principal campaign committee of Rep. Ilhan Omar.
2. In 2016, the Omar committee made a noncampaign disbursement of \$2,250 to the Kjellberg Law Office.
3. The Omar committee's 2016 year-end report stated only that the payment was for legal fees and did not explain what those fees were for or how they related to the committee.
4. The 2016 payment of \$2,250 from the Omar committee to the Kjellberg Law Office was not a payment for Rep. Omar's subsequent marital dissolution.
5. The \$2,250 payment was a reimbursement for two payments made by the Kjellberg Law Office. One payment of \$750 was made to De Leon & Nestor, LLC for obtaining immigration records and one payment of \$1,500 was made to Frederick & Rosen, Ltd. for services related to Mr. Hirsi's and Rep. Omar's filed joint tax returns of 2014 and 2015.
6. On August 31, 2016, the Kjellberg Law Office mailed an invoice to Rep. Omar for reimbursement of the \$1,500 payment to Frederick & Rosen, Ltd.
7. On September 30, 2016, the Kjellberg Law Office mailed an invoice to Rep. Omar for reimbursement of the \$750 payment to De Leon & Nestor, LLC.
8. The Omar committee's 2016 pre-general report, which covered the period of January 1, 2016, through October 24, 2016, does not include the incurred debt of \$1,500 owed to Frederick & Rosen, Ltd., or the \$750 owed to De Leon & Nestor, LLC.
9. The \$750 paid to De Leon & Nestor, LLC, was for legal services that benefitted the committee.

⁹ On two separate occasions counsel for the Omar committee confirmed that this expense was related to the African Network of Southwest Florida's Annual Gala.

¹⁰ http://clerk.house.gov/public_disc/financial-pdfs/2018/10024006.pdf

10. There is no substantive evidence in the record to show that the \$1,500 paid to Frederick & Rosen, Ltd. was for services that benefited the Omar committee.
11. In 2017, the Omar committee paid \$337.40 for airfare to Boston so that Rep. Omar could make a speech at a unity rally and attend a campaign event for a local city council candidate.
12. In 2017, the Omar committee paid \$1,700.80 for airfare so that Rep. Omar could return from the European Young Leaders conference in Estonia. Rep. Omar's costs to attend the conference in Estonia were originally paid for by the conference organizers. This conference may have assisted Rep. Omar in performing her legislative duties and her invitation to the event was due to her status as a legislator. The travel costs paid for by the Omar committee were related to Rep. Omar missing her return flight due to illness.
13. In 2017, the Omar committee paid \$581.43 for a hotel stay so that Rep. Omar could give a speech and be interviewed by a young woman from South America at the Girl Up UN conference in Washington, D.C. While Rep. Omar would not have been asked to participate in the Girl Up UN Conference had she not been elected to the Minnesota House, she did not attend this event to assist her in her performance of her duties as a legislator.
14. In 2017, the Omar committee paid \$611.20 for airfare so that Rep. Omar could attend a meeting for the People for the American Way's America's Cabinet in New York. While Rep. Omar would not have been asked to participate in the America's Cabinet had she not been elected to the Minnesota House, she did not attend this event to assist her in her performance of her duties as a legislator.
15. In 2017, the Omar committee paid \$232.20 for airfare so that Rep. Omar could be the keynote speaker at the National Immigrant Justice Center's annual Human Rights Awards luncheon and receive the Jeanne and Joseph Sullivan Award. While Rep. Omar would not have been the recipient of the award or the keynote speaker at the event had she not been elected to the Minnesota House, this event was a fundraising event for the National Immigrant Justice Center. Additionally, she did not attend this event to assist her in her performance of her duties as a legislator.
16. In 2017, the Omar committee paid \$207 for airfare so that Rep. Omar could be the keynote speaker at the African Network of Southwest Florida's Annual Gala. Rep. Omar was paid \$800 for her speech at the event. While Rep. Omar might not have been the keynote speaker at this event had she not been elected to the Minnesota House, she did not attend this event to assist her in the performance of her duties as a legislator.

Based on the above findings of fact, the Board makes the following:

Conclusions of law

1. The Omar committee's 2016 year-end report of receipts and expenditures did not include a description of the payment to the Kjellberg Law Office sufficient to justify that payment as a noncampaign disbursement as required by Minnesota Rules 4503.0900, subpart 3.
2. The Omar committee's 2016 pre-general report of receipts and expenditures did not include the Omar committee's debts of \$1,500 to Frederick & Rosen, Ltd. and \$750 to De Leon & Nestor, LLC, in violation of Minnesota Statutes section 10A.20, subdivision 3, paragraph (j), and subdivision 4.
3. The Omar committee has failed to meet its burden to prove, by a preponderance of the evidence, that the payment of \$1,500 to Frederick & Rosen, Ltd. was a permitted noncampaign disbursement under Minnesota Statutes section 211B.12.
4. The Omar committee made an in-kind contribution of \$337.40 in airfare to allow Rep. Omar to attend a campaign event in Boston for a local candidate in violation of Minnesota Statutes section 10A.27, subdivision 9, paragraph (d).
5. The Omar committee improperly paid the hotel costs for Rep. Omar's stay in Washington D.C. to give a speech and participate in an interview by a young woman for the Girl Up UN conference.
6. The Omar committee improperly paid the costs for Rep. Omar's travel to New York to attend a planning meeting for the America's Cabinet.
7. The Omar committee improperly paid the costs for Rep. Omar's travel to Chicago to accept an award at a fundraising luncheon for the National Immigrant Justice Center.
8. The Omar committee improperly paid \$207 for Rep. Omar's travel to Florida to receive an honorarium for attending the gala for the African Network of Southwest Florida in violation of Minnesota Statutes section 211B.12.

Based on the foregoing findings and conclusions, the Board issues the following:

Order

1. The Omar committee must file an amended 2016 pre-general report disclosing the amounts owed for immigration services and obtaining and reviewing the joint tax returns, and must fully describe the purpose of those expenses within ten days of the date of this order.

2. Rep. Omar must personally reimburse the Omar committee \$3,469.23. This reimbursement payment is the total amount of campaign funds that were used for purposes not permitted by statute in 2016 and 2017. Rep. Omar must provide documentation within 30 days from the date of this order showing the deposit of the reimbursement into the Omar committee's account.
3. A civil penalty of \$500 is assessed against Rep. Ilhan Omar personally for the \$207 payment in violation of Minnesota Statutes section 211B.12. Rep. Omar must personally pay the \$500 by check or money order made payable to the State of Minnesota. Payment must be within 30 days of the date of this order.
4. The Omar committee shall review its 2018 year-end reports of receipts and expenditures and make any amendments necessary to ensure that those reports comply with the findings of fact, conclusions of law, and order contained herein.
5. This order resolves the violations discussed above and all other violations that could have arisen out of the reports filed by the Omar committee.
6. The Board investigation of this matter is concluded and hereby made a part of the public records of the Board pursuant to Minnesota Statutes section 10A.022, subdivision 5.

/s/ Margaret Leppik
Margaret Leppik, Chair
Campaign Finance and Public Disclosure Board

Date: June 6, 2019