

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

**Findings in the Matter of a Prohibited Contribution
During the 2009 Legislative Session
By The TCO Political Action Committee**

Summary of the Facts

Minnesota Statutes, section 10A.273, subdivision 1(b), prohibits a political committee from making a contribution to a party unit established within a house of the legislature during a regular legislative session. A political committee that violates this section is subject to a civil penalty of up to \$1,000.

The 2009 Report of Receipts and Expenditures for the TCO Political Action Committee disclosed a contribution to the DFL House Caucus on March 4, 2009, in the amount of \$8,000. The Legislative Session was held from January 6 through May 18, 2009.

In response to an inquiry from the Campaign Finance and Public Disclosure Board (the Board), Representative Steve Simon, treasurer, states the DFL House Caucus received an \$8,000 contribution from the TCO Political Action Committee on December 8, 2008. On February 5, 2009, the campaign finance director for the caucus could not ascertain the registration number to include on the 2008 Report of Receipts and Expenditures, and returned the contribution within 60 days. On March 12, 2009, the DFL House Caucus received a replacement check from the TCO PAC for the same amount with the registration number.

Representative Simon further states that “Although the DFL House Caucus took the contribution as a replacement check, we understand that there is nothing in the statute guiding the receipt of a replacement check during the legislative session. Therefore, the DFL House Caucus has issued a check for \$8,000 to the TCO Political Action Committee to return the contribution. We will continue to review our internal control procedures to ensure this does not occur again.” On March 9, 2010, the DFL House Caucus returned \$8,000 to the TCO Political Action Committee for the contribution received March 12, 2009, and provided a copy of the letter and check used to return the contribution.

Board records show that TCO Political Action Committee first registered with the Board on February 4, 2009.

Board Analysis

On December 8, 2008, when TCO PAC gave the original contribution to the DFL House Caucus, TCO PAC was not an entity registered with the Board. Thus any contribution in excess of \$100 would be prohibited if not accompanied by statutorily required disclosure. The DFL House Caucus did, in fact, return the contribution within the sixty day period permitted for doing so. Returning a contribution to the source within sixty days of receipt nullifies the transaction.

When the second TCO PAC check was received on March 12, 2009, the transaction constituted a new contribution, this time from a registered political committee. Under the statutes, the 2009 check was not a replacement for the 2008 check and, thus, would not have the effective date of the original check.

This matter was considered by the Board in executive session on April 6, 2010. The Board's decision was based upon correspondence from Representative Simon and Board records.

Based on the above Summary of the Facts and Relevant Statutes, the Board makes the following:

Finding Concerning Probable Cause

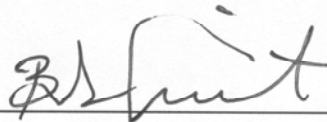
1. There is probable cause to believe that the TCO Political Action Committee violated Minnesota Statutes, section 10A.273, subdivision 1(b), by contributing \$8,000 to the DFL House Caucus during the 2009 regular legislative session.
2. There is no probable cause to believe that this violation was intentional or done with the intent to circumvent the requirements of Minnesota Statutes, Chapter 10A.

Based on the above Finding Concerning Probable Cause, the Board issues the following:

ORDER

1. The Board imposes a civil penalty of \$1,000 on the TCO Political Action Committee for making a contribution to a party unit established within a house of the legislature during the regular session of the Minnesota Legislature in violation of Minnesota Statutes, section 10A.273, subdivision 1.
2. The TCO Political Action Committee is directed to forward to the Board payment of the civil penalty, by check or money order payable to the State of Minnesota, within 30 days of receipt of this order.
3. If TCO Political Action Committee does 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 Board investigation of this matter is entered into the public record in accordance with Minnesota Statutes, section 10A.02, subdivision 11, and upon payment by the TCO Political Action Committee, the matter is concluded.

Dated: April 6, 2010



Bob Milbert, Chair
Campaign Finance and Public Disclosure Board

Relevant Statutes

1. Minnesota Statutes, section 10A.273, subdivision 1. **Contributions during legislative session.** (a) A candidate for the legislature or for constitutional office, the candidate's principal campaign committee, or a political committee or party unit established by all or a part of the party organization within a house of the legislature, must not solicit or accept a contribution from a registered lobbyist, political committee, political fund, or dissolving principal campaign committee, or from a party unit established by the party organization within a house of the legislature, during a regular session of the legislature.