

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

FINDINGS REGARDING DAVID DILL FOR MINNESOTA DISTRICT 6A

Procedural Background

On March 3, 2004, Mark Abrahamson, James Hart, Brenda Melquist, and Nancy Powers “the Complainants” filed a complaint against the David Dill for Minnesota District 6A committee (“the Committee”) alleging that Representative Dill (“the Respondent”) violated Minnesota Statutes, Chapter 10A.

The Complainants alleged that the Respondent knowingly exceeded his 2002 primary and calendar year campaign expenditure limits and that he attempted to conceal excessive spending in four ways: underreporting campaign expenses related to the use of a personal airplane, failing to timely report pre-primary campaign expenses, reporting campaign expenses as non-campaign disbursements, and failing to report in-kind campaign expenditures. In addition, the Complainants alleged that the Respondent used a government discount for aviation fuel to benefit his campaign.

By letter dated March 5, 2004, the Respondent was notified of the complaint and offered an opportunity to respond. On March 19, 2004, the Respondent requested an extension to respond.

On March 22, 2004, the Complainants forwarded to the Board a June 4, 2001, letter from the Respondent to the Orr City Council in which the Respondent estimated the cost of use of his personal aircraft at \$100 per hour.

On March 25, 2004, the Complainants sent the Board a letter regarding two Committee campaign volunteers, Bill Arthur and Richard Watson. This correspondence was forwarded to the Respondent.

On April 1, 2004, the Complainants forwarded to the Board a newspaper article regarding the Respondent regarding allegations that the Respondent requested that a city clerk perform campaign activities “while on city time.” This correspondence was forwarded to the Respondent, however, the violations alleged in this newspaper article are not violations of Minnesota Statutes, Chapter 10A.

The Respondent’s reply dated April 8, 2004, addressed several specific allegations regarding underreporting campaign expenses. In reply to the Complainants’ allegation that the Respondent underreported the cost of operating a personal aircraft, the Respondent stated “I took an approach common in the industry: I reported my expenses in connection with the use of my aircraft as the out-of-pocket costs for each campaign-related flight.” In response to the Complainants’ allegation that the Respondent failed to disclose expenditures to the City of Orr on the Committee’s pre-primary Report of Receipts and Expenditures, the Respondent stated “the City did not invoice me for these expenses until October 3, 2002, and its invoice did not reflect when each expense was incurred...It is my best estimate that, of these expenses, about 75 percent were incurred before the primary election, and about 25 percent were incurred between the primary election and the general election.”

In answer to the Complainants’ allegations that the Respondent classified volunteer mileage incurred by LaVonne Bietz as a non-campaign disbursement, the Respondent stated, “that classification was a clerical error...”

In response to the Complainants' allegation that the Respondent paid an in-kind salary of groceries to a member of the campaign, Bill Arthur, the Respondent stated, "Throughout the campaign, Mr. Arthur kept the campaign's volunteer headquarters stocked with food and beverages, which he charged to his personal account at the Pelican Bay IGA. The food and beverages were consumed by volunteers working on the campaign, including by Mr. Arthur, as they worked at the headquarters in Crane Lake, or traveled around the district...The amount of food and beverages that Mr. Arthur consumed was comparable to the amounts that other volunteers consumed, commensurate with the time spent working on my campaign."

In reply to the Complainants' allegation that an expenditure to Richard Watson that was reported as a noncampaign disbursement for food and beverage costs should have been reported as a campaign expenditure for web site services, the Respondent stated that Mr. Watson was reimbursed for his mileage and meals on a three-day campaigning trip and stated "Mr. Watson did not supply any 'web site services' to my campaign.

In response to the Complainants' allegations that the Respondent received discounted aviation fuel, the Respondent stated, "My campaign did buy aviation fuel at less than fair market value. But the campaign reported its expenses for that fuel at the full retail price, not the discounted rate."

On April 19, 2004, the Board requested additional information from the Respondent. The Respondent replied on April 26, 2004. In response to the Board's inquiry regarding why the expenses for use of his personal aircraft were not included on his Report of Receipts and Expenditures for the period covering January 1, 2002, through August 19, 2002, the Respondent stated "I first requested reimbursement for the use of aircraft in September 2002, just a few days after the primary election, and the reimbursement was paid on September 26. I didn't realize until after the primary election that I needed to submit a bill before the primary election." The Respondent also provided requested documents including: a spreadsheet of all campaign expenditures and non-campaign disbursements, receipts submitted by LaVonne Beitz and Richard Watson, and grocery receipts from Bill Arthur's account at the Pelican Bay IGA.

At its meeting on April 28, 2004, both the Respondent and Nancy Powers, one of the Complainants, provided testimony before the Board. Ms. Powers provided the Board with additional correspondence on behalf of all the Complainants.

By letter dated May 4, 2004, the Board requested additional information from the Respondent regarding the cost of food consumed by him that was classified as a noncampaign disbursement and the fair market value for the use of his aircraft.

On May 4, 2004, Ms. Powers sent additional correspondence to the Board. This correspondence was forwarded to the Respondent.

On May 14, 2004, the Respondent replied and stated, "The amount that my campaign incurred in overhead type costs for operating the aircraft, but did not report, was...only about \$20 hourly." The Respondent further stated "\$80 to \$100 hourly, is an industry guideline arrived at by the Cessna Pilots Association." The Respondent estimated the cost of food consumed by him while campaigning to be \$350.

This matter was considered at the Board's meetings on April 28, 2004, and May 26, 2004. The Board's decision was based upon the complaint, the Complainants' supporting documents and correspondence, Representative Dill's responses, Nancy Powers's testimony, Representative Dill's testimony, and Board records.

Based on the record before it, the Board issues the following:

EVIDENTIARY FINDINGS

1. Minn. Stat. §10A.20, subd. 3, requires that donations in kind be disclosed at their fair market value. On the Committee's Report of Receipts and Expenditures for calendar year 2002, the Committee disclosed a cost of \$27.44 per hour for the use of Representative Dill's personal aircraft. There is evidence that the cost of operation the type of aircraft Representative Dill used is \$80 per hour. The difference between the fair market value of operating the aircraft used and the amount the Committee paid for using the aircraft is a donation in kind from Representative Dill and an in-kind expenditure by the Committee.
2. There is evidence that \$973.18 in campaign expenditures by Lavonne Bietz were improperly and inadvertently categorized and disclosed as noncampaign disbursements. Of that amount, there is evidence that \$647.56 was incurred before the primary election.
3. There is no evidence that the City of Orr made an in-kind contribution to the Committee or that the Committee benefited from an employee discount for aviation fuel.
4. There is evidence that the Committee improperly disclosed a pre-primary expenditure to the City of Orr for office resources as a post-primary expense.
5. There is no evidence that Richard Watson provided web site services for the Committee.
6. There is no evidence that the Committee paid Bill Arthur an in-kind salary for his contributions as a campaign volunteer.
7. In calendar year 2002, Minn. Stat. §10A.25, subd. 5, limited the amount a first time candidate could spend before the primary to \$30,118.
8. In calendar year 2002, Minn. Stat. §10A.25 limited the amount a first time candidate in a contested primary could spend to \$36,142.
9. A review of the Committee's campaign account ledgers and the committee's Report of Receipts and Expenditures for calendar year 2002, disclosed that the Committee made pre-primary expenditures of \$34,144.78. This number was calculated using a fair market value of \$80 per hour for the campaign's use of Representative Dill's airplane, and includes the pre-primary expenditures to Lavonne Bietz for volunteer mileage and to the City of Orr for office resources. This amount is \$4,026.78 in excess of the amount allowed by Minn. Stat. §10A.25, subd. 5.
10. A review of the Committee's campaign account ledgers and the Committee's Report of Receipts and Expenditures for calendar year 2002, disclosed that the Committee made \$38,554.77 in campaign expenditures in calendar year 2002. This amount is \$2,412.77 in excess of the amount allowed by Minn. Stat. §10A.25, for a first time candidate with a contested primary.
11. Minn. Stat. §10A.01, subd. 9, defines campaign expenditures as a purchase or payment "incurred for the purpose of influencing the nomination or election of a candidate or for the purpose of defeating a ballot question." Minn. Stat. §10A.01, subd. 26, itemizes nineteen expenditures which can be classified as noncampaign disbursements. Food consumed by a candidate while

campaigning does not meet the definition of either campaign expenditure or noncampaign disbursement.

12. There is evidence that Representative Dill disclosed food he consumed while campaigning as noncampaign disbursements on his Report of Receipts and Expenditures for calendar 2002.
13. Minn. Stat. §10A.025 provides that an individual who signs and certifies to be true a report or statement 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 board of up to \$3,000.
14. There is no evidence that the Respondent knowingly violated Minn. Stat. §10A.025.
15. The Board is not authorized to make findings of probable cause regarding matters that are not within the Board's jurisdiction.

Based on the above Statement of the Evidence, the Board makes the following:

FINDINGS CONCERNING PROBABLE CAUSE

1. There is probable cause to believe that the Committee underreported the fair market value of the use of the Respondent's personal aircraft on its Report of Receipts and Expenditures for calendar year 2002 and did not properly disclose this expense on the pre-primary Report of Receipts and Expenditures.
2. There is probable cause to believe that the \$973.18 campaign expenditure to LaVonne Bietz was improperly and inadvertently classified and disclosed as a noncampaign disbursement on the Committee's Report of Receipts and Expenditures for calendar year 2002. Of this amount \$647.56 must be allocated to the pre-primary period.
3. There is no probable cause to believe that the City of Orr made an in-kind contribution to the Committee or that the Committee benefited from an employee discount for aviation fuel.
4. There is probable cause to believe that the Committee improperly allocated a pre-primary expenditure to the City of Orr for office resources as a post-primary expense.
5. There is no probable cause to believe that the Committee paid Richard Watson for web site services.
6. There is no probable cause to believe that the Committee paid Bill Arthur an in-kind salary for web site services.
7. There is probable cause to believe that the Committee exceeded the first time candidate 2002 primary election expenditure limit as set forth by Minn. Stat. §10A.25, subd. 5.
8. There is probable cause to believe that in calendar year 2002 the Committee exceeded the expenditure limit for a first time candidate in a contested primary as set forth by Minn. Stat. §10A.25.

9. There is probable cause to believe that in calendar year 2002 Representative Dill made an inappropriate expenditure when he used campaign funds to purchase his own food while campaigning.
10. There is no probable cause to believe that in calendar year 2002 the Respondent violated Minn. Stat. §10A.025, by knowingly filing a false report.

Based on the above Findings, the Board issues the following:

ORDER

1. The Board imposes a civil penalty on the Committee for its pre-primary campaign expenditures that exceeded the primary spending limit, as set forth by Minn. Stat. 10A.25, subd. 5.
2. The Board imposes a civil penalty on the Committee for its annual campaign expenditures that exceeded the yearly spending limit as set forth by Minn. Stat. 10A.25.
3. Pursuant to Minn. Stat. §10A.28, subd. 3, there being substantial evidence that expenditures were made in excess of the statutory limits, the Board directs staff to enter into the mandatory conciliation process with the Committee.
4. Because food for the candidate is not considered either a campaign expenditure nor a campaign disbursement, Representative Dill is ordered to reimburse the Committee the estimated cost of food consumed by him that was classified as noncampaign disbursement and to provide the Board with a copy of the check reimbursing his committee within thirty days of receipt of this order.
5. The Board directs Representative Dill or a member of his campaign committee to work with Board staff to complete an amended Report of Receipts and Expenditures for calendar year 2002.
6. The complaint alleging that the Respondent violated Minn. Stat. §10A.025, by knowingly filing a false report is dismissed in its entirety.
7. The Board investigation of this matter is hereby made a part of the public records of the Board pursuant to Minn. Stat. §10A.02, subd. 11, and upon payment by the David Dill of the civil fine agreed to in the conciliation process, this matter is concluded.

Dated: _____

Wil Flugel, Chair
Campaign Finance and Public Disclosure Board