

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

**FINDINGS AND ORDER IN THE MATTER OF
A COMPLAINT REGARDING
FAITH, FAMILY, FAIRNESS ALLIANCE**

Summary of Allegations and Responses

By letter dated May 2, 2006, Jeffrey J. Davis, President, Minnesota Citizens in Defense of Marriage, filed a complaint with the Campaign Finance and Public Disclosure Board (the Board). The complaint alleged that the Faith, Family, Fairness Alliance (FFFA) violated the provisions of Minnesota Statutes Chapter 10A when the association failed to register and report as a political committee and failed to report lobbying expenditures either through a lobbyist or as a lobbyist principal.

In support of the allegation that FFFA participated in activities that require registration and reporting with the Board, the complaint provided a copy of a letter inviting Senators to attend an event at the State Capitol Rotunda on March 23, 2006. In letter states in part, "For the third year in a row, a constitutional amendment banning marriage and other legal protections for same-sex couples has been one of the primary issues debated at the Capitol. OutFront Minnesota has been working with faith communities around the state who are opposed to the amendment..." The letter states that at the event individuals will "... speak in favor of fairness and justice in the face of attempts to enshrine discrimination in our state constitution." The letter further states, "The event is being organized by OutFront Minnesota and the Faith, Family, Fairness Alliance ...". The letter is on OutFront Minnesota letterhead, and is signed by OutFront Minnesota and FFFA.

Explaining the complaint Mr. Davis states, "...FFFA appears to have violated Minn. Stat. §10A.14 (registration as a political committee) and §10A.20 (periodic reporting requirement) in at least calendar year 2006, if not earlier. Moreover, FFFA (an unknown entity/association) has not filed any lobbyist principal reports or lobbyist registration relative to its activities, the extent and scope of which is unknown, unreported, and undisclosed."

FFFA is not registered with the Board as a political committee or political fund. There are no lobbyists registered with the Board on behalf of FFFA.

By letter dated May 4, 2006, the Board notified FFFA of the complaint and afforded the association an opportunity to respond.

By letter dated May 17, 2006, Rev. Laurie Crelly, Co-Chair, responded on behalf of FFFA. In describing the mission of FFFA Rev. Crelly states, "We are a volunteer led, not-for-profit organization that seeks to provide support and education for gay, lesbian, bisexual, and transgender persons as they progress in their various faith journeys. ...The needs for education and discourse that FFFA's mission and intended activities are directed to are themselves informed by the social, cultural, and political climate of our society. The fact that members of

the Minnesota State Legislature have chosen to address the possibility of amending the State's Constitution in defining civil marriage is a reflection of that climate. While FFFA may in small part support people of faith's right to engage in dialog with these legislators, FFFA's mission of education and dialog is primarily with...people of faith."

In response to the complaints allegation that the FFFA failed to register as a political committee Rev. Crelly states, "Conspicuously absent from...allegations against FFFA is any suggestion whatsoever that the "major purpose" of FFFA is to promote or defeat this or any other ballot question...neither the organizing of rallies nor working to defeat any ballot question constitutes a "major purpose" of FFFA."

In response to the complaints allegation that FFFA has participated in lobbying activities Rev. Crelly states, "...FFFA has not hired anyone to lobby members of the State Legislature or State executive branch officials with regard to passage of legislation related to this constitutional amendment or any other subject."

By letter dated June 1, 2006, the Board asked FFFA for information on the following issues; what costs were paid by FFFA to identify and invite speakers to the March 23, 2006, rally at the Capitol Rotunda (the rally), what FFFA travel or lodging costs did FFFA provide to speakers who spoke at the rally, and what did FFFA pay any of the costs of producing or mailing the letter provided in the complaint, or any other letter or advertisement related to the rally.

By letter dated June 6, 2006, Rev. Crelly responded on behalf of FFFA. In explaining the role of FFFA in securing speakers for the rally Rev. Crelly stated, "Faith Family Fairness Alliance...worked with OutFront MN (OFM) to organize the People of Faith Rally on March 23rd, 2006. FFFA worked to identify and invite faith leaders as speakers for the event. Our work was done by volunteers and no costs were incurred in locating the speakers. All speakers volunteered their participation in the event. No honorariums were offered and no costs for travel or lodging were covered by FFFA."

In explaining the role of FFFA in the production of the letter presented as evidence in the complaint Rev. Crelly states, "The letter sent to State Senators...was drafted jointly by FFFA and OFM, but cost of mailing this letter was covered by OFM. We helped write the letter and secure the signers of the letter, but no cost was incurred by FFFA to do so. All other forms of advertising of the People of Faith Rally promoted by FFFA were sent via email to our FFFA members and by word of mouth. No additional costs for advertising were incurred by FFFA to promote this event."

The Board considered the matter in executive sessions on June 7, and August 15, 2006. The Board's decision is based upon the complaint, Rev. Crelly's responses on behalf of FFFA, and Board records.

Board Analysis

Chapter 10A applies to a “ballot question” if the issue is to be placed on the ballot statewide. (Minnesota Statutes, section 10A.01, subdivision 7). This statute also provides that the phrase “promoting or defeating a ballot question” includes activities related to qualifying the question for placement on the ballot. Therefore, a ballot question exists when the legislature considers placing an issue before the voters statewide in the form of a constitutional amendment.

Chapter 10A defines a group of two or more persons acting in concert (who are not all family members) as an “association” (Minnesota Statutes, section 10A.01, subdivision 6). Minnesota Statutes section 10A.14, subdivision 1, provides in part that an association must register with the Board no later than 14 days after the association has made a contribution, received contributions, or made expenditures in excess of \$100 for the purpose of promoting or defeating a ballot question. An “expenditure” is a purchase or payment of money made or incurred for the purpose of promoting or defeating a ballot question. (Minnesota Statutes, section 10A.01, subdivision 9)

Associations register with the Board as a “political committee” if the major purpose of the association is to promote or defeat a ballot question. Alternatively, associations register as a “political fund” if the association uses accumulated dues or voluntary contributions to promote or defeat a ballot question. (Minnesota Statutes section 10A.01, subdivisions 27 and 28.) An association that does not meet the definition of political committee and makes expenditures of over \$100 to promote or defeat a ballot question must make the expenditure from a political fund. (Minnesota Statutes section 10A.12)

Failure to register as a political committee or political fund after receiving notification from the Board of the need to register is subject to a late filing fee of up to \$100, and a civil penalty of up to \$1,000. Registering with the Board as a political committee or fund obligates the committee or fund to file periodic Reports of Receipts and Expenditures that provide the disclosure required in Minnesota Statutes section 10A.20.

Lobbying is defined in Minnesota Rules, 4511.0100, Subpart 3, as attempting to influence legislative action or administrative action by communicating with or urging others to communicate with public officials. Any activity that directly supports this communication is considered a part of lobbying.

Efforts to support or oppose the placement of a constitutional amendment on the ballot by the legislature, either through direct communication with legislators or by urging the public to contact their legislator, is a lobbying activity.

An association becomes a lobbyist “principal” if it spends more than \$500 to employ a lobbyist during a calendar year or spends at least \$50,000 on efforts to influence legislative action, administrative action, or the action of metropolitan governmental units (Minnesota Statutes, section 10A.01, subdivision 33). An association that is a lobbyist principal is required to file an annual report of its lobbying disbursements with the Board.

Additionally, an individual must register as a lobbyist with the Board on behalf of an association if the individual is compensated over \$3,000 a year for attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit by communicating with, or urging others to communicate with public or local officials. An individual who fails to register as a lobbyist after receiving notification from the Board of the need to register is subject to a late filing fee of up to \$100, and a civil penalty of up to \$1,000.

Relevant Statutes and Administrative Rules

Minnesota Statutes, section 10A.01, subdivision 6. Association. "Association" means a group of two or more persons, who are not all members of an immediate family, acting in concert.

Minnesota Statutes, section 10A.01, subdivision 7. Ballot question. "Ballot question" means a question or proposition that is placed on the ballot and that may be voted on by all voters of the state. "Promoting or defeating a ballot question" includes activities related to qualifying the question for placement on the ballot.

Minnesota Statutes, section 10A.01, subdivision 9. Campaign expenditure. "Campaign expenditure" or "expenditure" means a purchase or payment of money or anything of value, or an advance of credit, made or incurred for the purpose of influencing the nomination or election of a candidate or for the purpose of promoting or defeating a ballot question.

Minnesota Statutes, section 10A.01, subdivision 21. Lobbyist. (a) "Lobbyist" means an individual:

- (1) engaged for pay or other consideration of more than \$3,000 from all sources in any year for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials; or
- (2) who spends more than \$250, not including the individual's own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials.

Minnesota Statutes, section 10A.01, subdivision 27. Political committee. "Political committee" means an association whose major purpose is to influence the nomination or election of a candidate or to promote or defeat a ballot question, other than a principal campaign committee or a political party unit.

Minnesota Statutes, section 10A.01, subdivision 28. Political fund. "Political fund" means an accumulation of dues or voluntary contributions by an association other than a political committee, principal campaign committee, or party unit, if the accumulation is collected or

expended to influence the nomination or election of a candidate or to promote or defeat a ballot question.

Minnesota Statutes, section 10A.01, subdivision 33 .Principal. "Principal" means an individual or association that:

- (1) spends more than \$500 in the aggregate in any calendar year to engage a lobbyist, compensate a lobbyist, or authorize the expenditure of money by a lobbyist; or
- (2) is not included in clause (1) and spends a total of at least \$50,000 in any calendar year on efforts to influence legislative action, administrative action, or the official action of metropolitan governmental units, as described in section 10A.04, subdivision 6.

Minnesota Statutes 10A.03 Lobbyist registration.

Subdivision 1. **First registration.** A lobbyist must file a registration form with the board within five days after becoming a lobbyist or being engaged by a new individual, association, political subdivision, or public higher education system.

Subd. 3. **Failure to file.** The board must send a notice by certified mail to any lobbyist who fails to file a registration form within five days after becoming a lobbyist. If a lobbyist fails to file a form within ten business days after the notice was sent, the board may impose a late filing fee of \$5 per day, not to exceed \$100, starting on the 11th day after the notice was sent. The board must send an additional notice by certified mail to a lobbyist who fails to file a form within 14 days after the first notice was sent by the board that the lobbyist may be subject to a civil penalty for failure to file the form. A lobbyist who fails to file a form within seven days after the second notice was sent by the board is subject to a civil penalty imposed by the board of up to \$1,000.

Minnesota Statutes, section 10A.12. Political funds.

Subdivision 1. **When required.** An association other than a political committee or party unit may not contribute more than \$100 in aggregate in any one year to candidates, political committees, or party units or make any approved or independent expenditure or expenditure to promote or defeat a ballot question unless the contribution or expenditure is made from a political fund.

Subdivision 6. **Penalty.** A person who knowingly violates this section is subject to a civil penalty imposed by the board of up to \$1,000.

Minnesota Statutes, section 10A.14. Registration.

Subdivision 1. **First registration.** The treasurer of a political committee, political fund, principal campaign committee, or party unit must register with the board by filing a statement of organization no later than 14 days after the committee, fund, or party unit has made a contribution, received contributions, or made expenditures in excess of \$100.

Subd. 2. Form. The statement of organization must include:

- (1) the name and address of the committee, fund, or party unit;
- (2) the name and address of the chair of a political committee, principal campaign committee, or party unit;
- (3) the name and address of any supporting association of a political fund;
- (4) the name and address of the treasurer and any deputy treasurers;
- (5) a listing of all depositories or safety deposit boxes used; and
- (6) for the state committee of a political party only, a list of its party units.

Subd. 4. **Failure to file; penalty.** The board must send a notice by certified mail to any individual who fails to file a statement required by this section. If the individual fails to file a statement within ten business days after the notice was sent, the board may impose a late filing fee of \$5 per day, not to exceed \$100, commencing with the 11th day after the notice was sent.

Minnesota Rules, 4511.0100 Definitions, Subpart 3. Lobbying. "Lobbying" means attempting to influence legislative action, administrative action, or the official action of a metropolitan governmental unit by communicating with or urging others to communicate with public officials or local officials in metropolitan governmental units. Any activity that directly supports this communication is considered a part of lobbying.

Based on the above Summary of Allegations and Responses, Board Analysis, and Relevant Statutes, the Board makes the following:

Findings Of Probable Cause

1. There is evidence that members of Faith, Family, Fairness Alliance organized and acted in concert to identify and invite speakers to a March 23, 2006, rally at the Capitol Rotunda. The Board finds that this activity qualifies Faith, Family, Fairness Alliance as an association for the purposes of Chapter 10A.
2. There is evidence that the March 23, 2006, rally at the Capitol Rotunda was an effort to communicate with or urge others to communicate with members of the legislature to oppose the passage of a proposed constitutional amendment. The Board finds that the actions of the Faith, Family, Fairness Alliance in support of the rally was "lobbying" as defined in Minnesota Rules, 4511.0100, Subpart 3.

3. There is no evidence that the Faith, Family, Fairness Alliance spent over \$100 to identify and invite speakers to the March 23, 2006, rally. There is evidence that the Faith, Family, Fairness Alliance did not pay for production or mailing costs of the letter inviting Senators to the March 23, 2006, rally. The Board finds that the Faith, Family, Fairness Alliance did not raise or spend sufficient funds to require registration as a political committee or a political fund under Minnesota Statutes, section 10A.14.
4. There is no evidence that the Faith, Family, Fairness Alliance compensated a lobbyist or spent at least \$50,000 on lobbying efforts.


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

Order

1. The allegation that the Faith, Family, Fairness Alliance is required to register as a political committee (or as a political fund) is dismissed.
2. The allegation that the Faith, Family, Fairness Alliance is required to provide the disclosure required of Minnesota Statutes, section 10A.20 is dismissed.
3. The allegation that the Faith, Family, Fairness Alliance engaged in lobbying activities that required the registration of a lobbyist is dismissed or the submission of a lobbyist principal report is dismissed.
4. The record in this matter and all correspondence is hereby entered into the public record in accordance with Minnesota Statutes, section 10A.02, subd. 11.

Board staff shall provide copies of these Findings to Jeffrey J. Davis and Rev. Crelly.

Dated: August 15, 2006



Bob Milbert, Chair
Campaign Finance and Public Disclosure Board