

**State of Minnesota  
Campaign Finance and Public Disclosure Board**

**In the matter of the Complaint Against the  
People for (Gregory) Davids Committee**

**Statement of the Allegations and Responses**

On June 23, 2006, Frank H. Wright filed a complaint against the People for (Gregory) Davids Committee (the "Committee"), alleging that the Committee violated Minnesota Statutes, Chapter 10A. The complaint letter was also signed by Margaret J. Hanson and Harlin Taylor (together, referred to hereinafter as "Complainants").

Complainants allege that the Committee "has abused the category of constituent services noncampaign disbursements - in particular travel and postages expenses". Complainants allege that: "These expenses have not been justified with the required meaningful information and therefore should be disallowed."

More specifically, Complainants question whether \$3,180 of mileage reimbursed to Representative Davids and \$3,704.76 claimed for postage, all classified as noncampaign disbursements for constituent services, should be disallowed because the report does not include sufficient information to justify the classification.

Complainants also asks the Board to investigate two questions:

"First, has Representative Davids, personally, benefited from improper reimbursement of expenses by the Davids committee?"

Second, has Representative Davids engaged in a pattern of misusing the constituent services noncampaign disbursement exception to unlawfully evade the limits that apply to campaign expenditures?"

Complainants "fervently believe that if there ever were a case for carefully and completely auditing the papers, records, and accounts of a legislative campaign committee and the legislator for whom it was established, that case is now before the Board." Complainants provide argument and opinion urging a complete audit. The merits of these arguments are addressed in the Discussion section of this document. Other than information from the Committee's 2005 report and information regarding travel reimbursement from the House of Representatives, Complainants offered little evidence to support any of their positions.

Upon receipt of the complaint, Board staff notified Representative Greg Davids and Matthew Quanrud, the Committee's Treasurer, of the allegations and afforded them an opportunity to respond.

Staff thoroughly examined the Committee's 2005 Report of Receipts and Expenditures. In addition, staff requested specific documents and information including copies of all receipts for expenses that were not clearly justified as noncampaign disbursements on the Report. Staff also requested a description of the constituent services performed in connection with various expenditures.

Representative Gregory Davids responded to the staff requests. There has been no response from or communication with Matthew Quanrud. Representative Davids provided a written response and exhibits consisting of receipts, samples of printed pieces, and explanations of various expenditures. Following receipt of the original response, staff requested additional information and received an additional response from Representative Davids.

## **Discussion**

The staff essentially conducted a complete audit and investigation of any expenditures that could be questioned either because they were not sufficiently explained on the Report or because they could include inappropriate or incorrectly classified items.

The results of the investigation are discussed below.

### **Mileage reimbursements to Representative Gregory Davids**

Complainants ask whether \$3,180.00 for mileage reimbursed to Representative Gregory Davids should be disallowed as noncampaign disbursements due to insufficient disclosure.

Staff requested that the Committee provide a detailed itemization of each reimbursement for mileage paid to Representative Davids, including the date of the reimbursement, date of each trip, where the Representative traveled, and why the travel should be considered a cost of constituent services. Representative Davids provided, as Exhibit 3 to his response, hand written materials including all of the requested information. While the detailed descriptions of the purpose of each meeting do not appear to be contemporaneously made with the trips, the records of the trips themselves appear to be made on an on-going basis to record the events.

The 2005 legislative session ran from January 4 through May 23, 2005. During this approximately 21 weeks, Representative Davids made 19 trips from the Capitol to his district in addition to those trips reimbursed by the Legislature. The trips were relatively evenly spread out over the session, with some heavier travel in February and March. Representative Davids indicated that these trips were so that he could collect and process constituent mail and to see constituents. Representative Davids' disclosure indicates that the trip is 232 miles. At the permitted mileage rate of 40.5 cents per mile, the charge of \$93.96 per trip reported by the committee is correctly calculated. Representative Davids also made many trips to meetings and events in southern Minnesota. Based on the described purposes of these trips, many of them might more accurately be classified as costs of serving in office rather than costs of constituent services. However, the change in classification would not make them campaign expenditures.

Complainants' allegation that insufficient information is included in the Committee's Report to support the constituent services noncampaign disbursement classification has merit.

Beyond the adequacy of disclosure, complainants also question Representative Davids' *amount* of overall travel. They ask the Board to "look closely at Representative Davids entire travel reimbursement lifestyle . . ." which they consider excessive.

The scope of the Board's jurisdiction is limited to whether money spent through a principal campaign committee is properly recorded and reported. The Board declines to comment about the appropriateness of the amount of travel undertaken by Representative Davids where, as here, the amount itself is not evidence of improper recording or reporting.

### **Postage reported as noncampaign disbursements for constituent services**

Complainants ask whether \$3,704.76 reported for postage as noncampaign disbursements for constituent services should be disallowed for lack of sufficient disclosure.

As part of the investigation of this matter, staff requested the Committee to provide copies of all receipts for postage reported as noncampaign disbursements and to describe what was mailed, including the number of pieces mailed and the persons to whom the mailing was sent.

Representative Davids provided, as Exhibit 9 to his response, copies of all checks to the U.S. Post Office, receipts for postage purchased, and a general description of the mailings covered by the postage.

At the time he submitted the post office checks, receipts, and explanations, Representative Davids amended the Committee's 2005 Report to re-classify two items of postage in the amounts of \$199.80 and \$81.40 from noncampaign disbursements to campaign expenditures.

Representative Davids identifies mass mailings of approximately 5,000 pieces. Receipts suggest that these mailings were done with first class stamps with a cost of \$1,850 for the three mailings.

Representative Davids also lists several other types of constituent mailing that he does. While Representative Davids' records with regard to the nearly \$2,000 of constituent services mailings in addition to the mass mailings are not complete, neither the Committee records nor anything provided by complainants provides evidence that expenditures were incorrectly categorized.

### **Issue Three**

#### **Complainants urge as a separate issue that a full audit should be conducted of the Committee's 2005 and prior year reports.**

Although separately listed by Complainants as an issue, a request for an audit is a part of the remedy, not a separate item of the complaint. In this case, Board staff conducted what was essentially a complete audit of the Committee's noncampaign disbursements for which there was insufficient disclosure or which raised other questions. The depth of this examination is sufficient to address both Complainant's issues and other issues that arose during the investigation.

#### **Additional issues raised in the Complaint**

While Complainants' letter specifically sets forth the above three issues, other issues are interspersed in the text of the letter, though not specifically identified as such. In some cases these issues are included in the Complainants' arguments and in other cases they are incorporated into requests for relief. The Board has attempted to identify all of Complainants' issues and, in this section, addresses those that were not clearly identified in the complaint.

#### **The candidate, not the treasurer, appears to prepare campaign finance reports and may write all of the Committee's checks.**

Complainants note that fines paid in the previous action were paid by checks signed by the Candidate, not the treasurer. The Board notes that in the present investigation all of the checks to the U.S. Post Office provided in Exhibit 9 were signed by the candidate, not the treasurer.

Minnesota Statutes Chapter 10A does not include a prohibition against the candidate signing principal campaign committee checks provided that the expenditures are authorized by the treasurer. Neither does Chapter 10A prohibit the candidate from filling out Reports of Receipts and Expenditures.

There is no allegation or evidence that Representative Davids attempted to circumvent or violate the provisions of Minnesota Statutes Chapter 10A by signing the checks and Reports.

**Did Representative Davids comply with the Board's 2004 order to repay certain hotel costs.**

In 2004, the Board disallowed as noncampaign disbursements for costs of serving in office certain hotel costs during the legislative session that were in excess of the per diem costs paid by the Legislature. It was the Board's position that those costs were for the personal use of the candidate.

Representative Davids repaid all of the costs in question with the exception of \$308.85. Following a request from Board staff, Representative Davids responded that the \$308.85 was for housing costs directly related to the performance of his legislative duties and incurred after adjournment of the session, so that per diem from the Legislature was not available to cover those costs.

Housing costs associated with travel to the Capitol as a part of legislative duties during periods when legislative per diem reimbursement is not available are properly reported as costs of serving in office.

**Do the allegedly low amounts of campaign expenditure postage costs, without more, give rise to an allegation on which the Board should take action.**

Complainants argue that because the Committee appears to use what they consider too large a percentage of its postage for constituent services rather than campaign expenditures, there must be some violation. Apparently to support that position, Complainants attach as Exhibit 8 a copy of a congratulatory letter and state that "Representative Davids is known throughout his district for his long standing (sic) habit of sending many congratulatory letters, sympathy cards and other greetings."

Although submitted as support for their complaint, Complainants properly acknowledge that the letter they submit as Exhibit 8 was apparently paid for out of Representative Davids' legislative budget and that its propriety "would be a question for the legislature, not the Board."

Representative Davids, in his written response, confirmed that this and similar letters were produced and paid for out of his legislative constituent services budget.

Complainants also state that in 2004, the Committee had only \$17.82 in campaign expenditures for postage (other than direct mailings). A review of the Committee's 2004 year end Report reveals, however, that there is \$488.02 in postage reported as campaign expenditures.

The Board also notes that in December of 2005, the Committee purchased approximately \$800 of postage charged to campaign expenditures. It is typical of committees to use some of their non-election year spending limit to pre-purchase items such as postage. This practice may have the effect of making election year postage costs appear to be lower than they actually are.

**Did the Committee provide sufficient disclosure of underlying information for expenditures that reimbursed Representative Davids for costs he incurred?**

When a person is reimbursed for expenses paid on behalf of a committee, the underlying information about costs being reimbursed must be reported. Minnesota Statutes, Section 10A.20, subd. 13, states in part that when reporting a reimbursement, the treasurer “must report the purpose of each expenditure or disbursement for which the third party is being reimbursed”. This disclosure includes the purpose, vendor, and amount of each underlying cost being reimbursed. The Committee Reports did not provide this disclosure.

As part of the investigation of this matter, Board staff requested that the Committee provide copies of receipts for all expenses for which Representative Davids was reimbursed. Representative Davids provided these receipts as Exhibit 4 to his response. Provision of these receipts is accepted by the Board in lieu of an amended report. In the future, this disclosure must be timely filed on periodic Reports.

**Do the amounts of mileage reimbursed to Representative Davids, without more, constitute a basis for further investigation?**

Complainants argue that Representative Davids’ reports show excessive mileage reimbursements in December of each year and that the mileage amounts are “inconceivable”. Complainants wonder whether “Representative Davids has gotten into the habit of paying himself a Christmas bonus from his campaign committee funds.” As with some of Complainants’ other allegations, no evidence of any improper conduct is provided; the allegations are based solely on campaign finance reports and on Complainants’ opinions of what an appropriate level of travel would be.

Complainants urge that it is inconceivable that Representative Davids drove 996 miles on December 31, 2005, the date of the last reimbursement. For 2005, staff requested and Representative Davids provided itemization of all reimbursed mileage. The December 31<sup>st</sup> check was reimbursement for multiple trips during the period. Based on the information provided, and the lack of evidence from Complainants of improper conduct, the Board concludes that there is no basis for investigation of mileage reimbursements from prior years.

**Are reimbursements for out of state travel to the National Conference of Insurance Legislators (NCOIL) conference proper and properly documented?**

Because the Committee’s 2004 Report lacked the detail required, staff requested receipts to support each reimbursement for NCOIL expenses. Representative Davids provided the requested receipts which document charges of \$760.65, as follows: \$350 registration fee, \$329.42 car rental, \$13.23 gasoline and \$68.00 parking.

Complainants urge the Board to deny use of committee funds for this conference as a cost of serving in office. They argue that “If the Board upholds the use of Campaign Committee funds for out of state travel under this broad category of expenses for serving in office, it will create yet another large opening for the essentially unregulated use of publicly subsidized funds by incumbents.” Complainants further argue that if it is necessary for legislators to travel out of state, then the cost of that travel should be paid out of legislative budgets.

Minnesota Statutes, Section 10A.01, subd. 26 (10) specifically provides for a noncampaign disbursement for “payment by a principal campaign committee of the candidate's expenses for serving in public office, other than for personal uses”.

Representative Davids was chair of the House Commerce Committee in 2004, the year the questioned reimbursements were made. In his response to this investigation, he indicated that the Speaker of the House requested him to attend the NCOIL conference as head of the committee responsible for insurance legislation in Minnesota. While the Board understands Complainants' concern that this noncampaign disbursement category permits officeholders to use principal campaign committee funds outside of campaign spending limits, it appears that the use of funds in this instance falls within this noncampaign disbursements exception.

**Has Representative Davids used his "constituent services office" for personal business purposes or for campaign purposes.**

The Board uses quotation marks around the phrase "constituent services office" to clarify that the term is not one that appears in Minnesota Statutes Chapter 10A. Rather it is the term used by Representative Davids to describe an office in Preston, MN that he maintains for meeting with constituents.

On the basis of an insurance business card listing the "constituent services office" address and telephone number and speculation about the use of the "constituent services office", Complainants question whether Representative Davids is using the office for personal business purposes. Board staff made extensive inquiry into this possibility as well as the possibility that the office was used for campaign purposes.

With respect to the specific business card provided by Complainants, Representative Davids indicated that the telephone number was listed in error and that when the error was discovered, within two weeks of the printing of the cards, the remaining cards were destroyed.

Board staff requested copies of all other business cards used by Representative Davids in his insurance business. He provided copies of cards and letterhead in Exhibit 17 to his response. No other business card uses the "constituent services office" telephone number. Representative Davids stated in his written response that he has never used the office to meet with insurance clients. Complainants' request that the Board examine Representative Davids purchases of furniture and equipment for his separate insurance business office goes beyond the scope of this investigation.

In the course of the investigation it became clear that Representative Davids used the constituent services post office box for both constituent services and personal/ business purposes. Representative Davids made appropriate reimbursements between himself and the Committee and amended prior year reports to accurately reflect the shared use of the box.

Board staff asked comprehensive questions about possible campaign use of the "constituent services office". Representative Davids responded to detailed questions. His answers disclosed no campaign use of the "constituent services office" with one exception. Representative Davids reported that he made 1,000 copies of a thank-you letter on the copier in the "constituent services office". The toner and paper for these copies were purchased as campaign expenditures; however use of the copier was not accounted for. Based on a 1.7 cent per-copy rate, Representative Davids has amended his 2005 report to decrease noncampaign disbursements by \$17 and increase campaign expenditures by the same amount.

### **Did Representative Davids submit timely requests for reimbursement?**

Complainants suggest that Representative Davids may not have submitted his reimbursement claims in a timely manner. They urge application of Minnesota Statutes, Sec. 10A.18 which requires that written bills be submitted within 60 days after the service is provided.

An examination of the Committee's 2005 report indicates that Representative Davids was being reimbursed on a monthly or more often basis. In general, there is nothing in the response provided by Representative Davids to suggest that the majority of reimbursement requests were not submitted on a timely basis.

Two December reimbursements merit further examination. The first is for parking at the State Capitol, a contract-based parking agreement available to legislators. Representative Davids was reimbursed \$582.00 on December 31, 2005, for this expense. The second reimbursement was for \$707.27 paid on December 31, 2005, for a second telephone line and internet services for constituent services activities.

With regard to the parking, no question was raised concerning the appropriateness of the expenditure as a cost of serving in office. Representative Davids explained to Board staff that he was billed monthly by the state for the parking and that reported the amount to the Committee on a monthly basis, with the understanding that he would pay the bill at the end of the year and the committee would reimburse him at that time. While Representative Davids incurred a monthly obligation to the state on an ongoing basis, he did not have a reimbursable expense until he paid the bill in December.

In the case of the internet service and telephone line, Representative Davids paid the bill on a monthly basis and states that he reported the amount to the Committee with the understanding that the amount would be reimbursed in a lump sum at the end of the year. Exhibit 4 includes a detailed itemization of the telephone and internet costs and what appear to be monthly sheets listing the monthly costs.

In both cases, it appears that the committee was accruing unpaid bills during the year, which were paid at the end of the year. In an election year, where timing of the expense may determine its characterization as campaign expenditure or noncampaign disbursement, it is important that bills be submitted in a timely manner and, if not paid on a monthly basis, that they be reported by the Committee as unpaid bills.

### **Additional Issues Raised in the Course of the Investigation.**

In the course of the investigation, the staff inquiry raised issues not identified by Complainants.

#### **Reporting of cost of meals for the candidate or others as costs of constituent services.**

Minnesota Administrative Rules 4503.0100, subpart 6 states, in part, that "constituent services" means services performed or provided by an incumbent legislator or constitutional officer for the benefit of one or more residents of the official's district . . .".

Representative Davids reported certain meals as noncampaign disbursements for constituent services. Buying a person a meal, or buying oneself a meal at a meeting, is not a service for constituents within the meaning of the rule and statute. Upon advice by the staff that payment for such meals is not considered a constituent service, Representative Davids reimbursed the Committee in the amount of \$135.00 for meals previously reported as constituent services.

**Reporting of payment for meals at meetings related to legislative duties.**

Payment for food while at a meeting directly related to legislative duties is a noncampaign disbursement. However, this noncampaign disbursement applies only to payment of meals for the officeholder, not for others attending the meeting.

Representative Davids reported certain meals for others than himself as noncampaign disbursements under the above provision. Upon advice by staff that payment of meals for others at such meetings is not within the exception, Representative Davids reimbursed the Committee in the amount of \$180 for meals previously reported as noncampaign disbursements for costs of serving in office.

**Payment for attendance at a golf tournament.**

Representative Davids reported payment to Lockridge, Grindal, Nauen of \$200 as a noncampaign disbursement for constituent services. When questioned about this expenditure, he explained that it was for a golf tournament sponsored for chiropractors and that he attended a roundtable discussion as part of his participation and that his participation provided a service to constituents.

When advised that it did not appear to be a constituent service, Representative Davids changed the cost to a noncampaign disbursement for food and beverages at a fundraising event. Upon advice that the fundraising noncampaign disbursement exception applied only to fundraisers for the candidate's own principal campaign committee, Representative Davids elected to personally reimburse the Committee \$200 for this expenditure.

**Payment for pens that were printed with Representative Davids' name, position, and telephone number.**

Receipts from Amsterdam Printing for direct payments or payments for which Representative Davids was reimbursed indicated the purchase of 550 ballpoint pens at a cost of \$436.76. Representative Davids provided samples of these pens, which were reported as noncampaign disbursements for constituent services. Each pen bears printing with Representative Davids' name, office or position, and telephone number.

Representative Davids stated that he still has the pens. He further states that they were intended for use by constituents at town meetings and that they were to be collected at the end of each meeting, but that no such meetings took place. He further states that he knows that nothing of value can be given to a voter under statute and that he did not intend to give the pens to voters.

Pursuant to Administrative Rule 4503.1000, Subp. 6, a constituent service must be a service performed or provided by an incumbent officeholder. If spending by a principal campaign committee does not fit specifically into a noncampaign disbursement category, it must be reported as a campaign expenditure.

The purchase of the described pens does not appear to meet the definition of a noncampaign disbursement for constituent services in part because the pens are imprinted with advertising identifying the candidate and providing his telephone number. The pens are therefore more properly classified as a campaign expenditure and should be reclassified as such.

**Can postage purchased in 2005 for campaign use be changed to a noncampaign disbursement in August, 2006 by amendment of the 2005 report?**

On August 8, 2006, Representative Davids faxed to the Board a hand written letter stating that "After further review of my 2005 Campaign Finance committee, I find that I made an inadvertent reporting error. I misclassified three expenditures to the United States Post Office. They were incorrectly reported as campaign expenditures but were non campaign expenditures (sic) for constituent services." The total affected by the items described in the letter was \$615.10.

The Board notes the following other evidence with regard to characterization of this postage expense. First, the 2005 Report itself, filed January 31, 2006, in close time proximity to the expenditures, lists them as campaign expenditures.

Second, Representative Davids was asked in detail to explain his postage expenditures as a part of this investigation. In his response, he provided copies of every check and every receipt for postage. During that review, he re-classified two items from noncampaign disbursement to campaign expenditure, but made no other adjustments.

Finally, the Board is in possession of copies of the three checks that are the subject of Representative Davids' letter. Each check is hand written and signed by Representative Davids and each of them bears, in the memo section, the phrase "100% Campaign". The Board notes that many other checks bear the memo "100% Const. Ser.". Also the Postal Service receipt supporting one of the three checks has the hand written note "Campaign" written on it.

While Representative Davids states that the postage was incorrectly classified on his report, he also provides contradictory evidence in the form of the report itself, the failure to make the change when he responded to the initial staff inquiry, and the checks on which he indicated the use of the postage. Therefore, it appears the expenditures were correctly classified on the Report filed in January, 2006.

**Are the costs of production, distribution, publication or broadcast of idea or suggestion solicitations within Representative Davids district properly reported as noncampaign disbursements for constituent services?**

The Board addressed this issue in the 2004 investigation and concluded that mass distribution of idea solicitations, not requested by any constituent, and identifying the candidate, often with a photograph, were campaign expenditures.

During the 2005 legislative session, the legislature amended Minnesota Statutes, Section 10A.01, subd. 26(6), the definition of constituent services, to add the phrase "including the cost of preparing and distributing a suggestion or idea solicitation to constituents . . .". This amendment went into effect August 1, 2005.

Representative Davids' Report discloses that even before the law change, he used the concept of the idea solicitation. He printed cards, ran radio spots, and ran print ads regularly in the local newspapers. While the Board could rule that such costs incurred before August 1, 2005, are campaign expenditures, in deference to the intent of the legislature, it declines to do so.

The complaint, besides being about a lack of disclosure, appears to be about the ability of incumbent officeholders to use noncampaign disbursement exceptions to effectively supplement their campaign expenditure budget. Because this is a legislative issue, it cannot be resolved by the Board.

**Based on the record before it, the Board makes the following:**

### **EVIDENTIARY FINDINGS**

1. There is evidence that at the time his 2005 Report was filed, Representative Davids failed to provide sufficient information to support the classification of mileage reimbursement as noncampaign disbursements for constituent services. During the course of the investigation, Representative Davids provided detailed information to support the mileage classification.
2. There is evidence that at the time his 2005 Report was filed, Representative Davids failed to provide sufficient information to support the classification of postage expenses as noncampaign disbursements for constituent services. During the course of the investigation, Representative Davids provided detailed information to support the postage expense classification.
3. There is evidence that Representative Davids signed and filed campaign finance Reports for 2004 and 2005. There is also evidence that Representative Davids signed at least some of the principal campaign committee checks during that period.
4. There is evidence that \$308.05 in hotel costs reimbursed to Representative Davids by his principal campaign committee in 2004 were for lodging costs during the legislative session interim and did not duplicate or supplement costs paid for by the Representative's per diem allowance.
5. There is no evidence that Representative Davids has incorrectly reported campaign expenditure postage as noncampaign disbursement postage. However, Representative Davids on his own initiative notified the Board that two postage items were incorrectly reported and should be treated as campaign expenditures. The amounts of these two items were \$199.80 and \$81.40. There is evidence that some constituent services congratulatory letters are paid for out of the Representative's legislative budget and are not within the jurisdiction of the Board.
6. There is evidence that at the time his 2005 report was filed, Representative Davids failed to provide sufficient information to document and support the reporting classification of costs for which he was reimbursed. During the course of the investigation, Representative Davids provided detailed information to document the reimbursed expenses and support their reporting classification.
7. There is no evidence that Representative Davids has sought or obtained mileage reimbursement from his committee to which he was not entitled.
8. There is no evidence that Representative Davids collected inappropriate reimbursements from his committee for costs of attending the 2004 National Conference of Insurance Legislators meeting.
9. There is no evidence that Representative Davids has used the office he designates as his "constituent services office" for business or campaign purposes with the exception of using the constituent services copy machine to copy 1,000 thank-you letters that were for campaign purposes and for which he has made appropriate amendments to his 2005 Report of Receipts and Expenditures.

10. There is evidence that Representative Davids was incurring a monthly expense for internet and telephone for which he expected to be reimbursed by his principal campaign committee. There is also evidence that Representative Davids was incurring a monthly obligation to the State of Minnesota for parking at the Capitol for which he expected to be reimbursed. There is evidence that Representative Davids provided the Committee with a monthly statement of the internet and telephone costs and that he verbally informed the Committee of the monthly parking fee
11. There is evidence that Representative Davids reported as noncampaign disbursements, certain meals for himself or for constituents, which were reported as constituent services and certain meals for staff or others, which were reported as costs of serving in office. There is also evidence that Representative Davids paid a golf tournament entry fee, which was originally reported as being for constituent services. Subsequently Representative Davids changed the classification to noncampaign disbursement for food "at a fundraiser". During the course of this investigation Representative Davids reimbursed his principal campaign committee in full for the cost of all of the items described in this paragraph
12. There is evidence that Representative Davids' committee purchased 550 ballpoint pens, each printed with his name, public office or title and telephone number. There is evidence that the cost of producing these pens was \$436.76. There is no evidence that the purchase of these pens served any constituent or group of constituents. There is evidence that Representative Davids intended that the pens with his name and telephone number would be seen and used by voters at various functions in his district.
13. The evidence that Representative Davids incorrectly classified \$615.10 in postage expense as noncampaign disbursements is insufficient to overcome the evidence that the original classification as campaign expenditures was correct.
14. There is evidence that both prior to and after August 1, 2005, Representative Davids produced and distributed idea solicitations by mail, in newspaper advertisements, and on the radio.
15. There is evidence that Representative Davids' campaign expenditures reported on the 2005 Report of Receipts and Expenditures were \$5,072.30. During the course of this investigation, he re-classified \$281.20 of postage from noncampaign disbursements to campaign expenditures and reclassified \$17.00 of copying costs from noncampaign disbursements to campaign expenditures. The adjusted campaign expenditure amount is \$5,370.50.

**Based on the above Evidentiary Findings, the Board makes the following:**

**FINDINGS CONCERNING PROBABLE CAUSE**

1. There is probable cause to believe that at the time Representative Davids' 2005 Report of Receipts and Expenditures was filed, it provided insufficient disclosure with respect to reporting mileage reimbursements paid to the candidate. The Board accepts the documentation provided during the investigation in lieu of amended reporting with regard to mileage reimbursements paid to Representative Davids. On that basis, there is no probable cause to believe that this reporting violation for 2005 has not been cured.
2. There is probable cause to believe that at the time Representative Davids' 2005 Report was filed, it provided insufficient disclosure with respect to reporting postage expenses classified as noncampaign disbursements for constituent services. The Board accepts the documentation provided during the investigation in lieu of amended reporting with regard to postage expenses. On that basis, there is no probable cause to believe that this reporting violation for 2005 has not been cured.
3. There is probable cause to believe that Representative Davids signed and filed the Committee's 2005 Report of Receipts and Expenditures and at least some of the Committee's checks. However, there is no probable cause to believe that either Representative Davids or the Committee's treasurer intentionally attempted to circumvent the responsibilities of the treasurer.
4. There is no probable cause to believe that Representative Davids failed to comply with the Board's order in its 2004 investigation which required the review and reimbursement of certain lodging reimbursements.
5. There is no probable cause to believe that Representative Davids intentionally reported postage as noncampaign disbursements that should have been campaign expenditures. During the course of the investigation, \$281.20 of postage was changed from noncampaign disbursements to campaign expenditures. There is no probable cause to believe that any other incorrect classifications of postage exist.
6. There is probable cause to believe that at the time Representative Davids' 2005 Report was filed, it provided insufficient disclosure with respect to reimbursements paid to the Representative. The Board accepts the documentation provided during the investigation in lieu of amended reporting with regard to reimbursements paid to Representative Davids. On that basis, there is no probable cause to believe that these 2005 reporting violations have not been cured.
7. There is no probable cause to believe that Representative Davids collected mileage reimbursements from the committee other than for reported committee purposes.
8. There is no probable cause to believe that that Representative Davids collected ineligible reimbursements from the Committee for costs of attending the 2004 National Conference of Insurance Legislators meeting.
9. There is no probable cause to believe that Representative Davids has used his "constituent services office" for his business. There is no probable cause to believe that Representative Davids has used his "constituent services office" for campaign purposes

except that Representative Davids acknowledges making 1,000 copies of a campaign thank-you letter on the copy machine dedicated to constituent services. Representative Davids has amended his 2005 Report to reflect the cost of the copier use of \$17.00 as a campaign expenditure to cure the reporting error.

10. There is probable cause to believe that Representative Davids did not comply with Minnesota Statutes, Section 10A.18, which requires a person to submit a written bill to the treasurer within 60 days of incurring an expense for which the person expects payment. This finding relates to Representative Davids' reimbursements for parking at the Capital. There is no probable cause to believe that this billing deficiency was intentional or that full compliance would have changed the Committee's 2005 report, which covered the entire year.
11. There is probable cause to believe that Representative Davids paid for meals for himself, constituents and others and that he paid the entry fee in a golf tournament, all with principal campaign committee funds and that those uses of committee funds do not fall within any noncampaign disbursement provided in Minnesota Statutes Chapter 10A. Representative Davids has personally reimbursed his committee in full for the items in question. Regulation of the use of principal campaign committee funds, generally, is governed by Minnesota Statutes Chapter 211B, which is not in the Board's jurisdiction.
12. There is probable cause to believe that the cost of \$436.76 for pens printed with Representative Davids' name, office or title and telephone number were for the purpose of influencing his election and were incorrectly reported on the Representative's 2005 Report as noncampaign disbursements for constituent services.
13. There is probable cause to believe that \$615.10 in postage which Representative Davids sought to reclassified as noncampaign disbursements, was correctly reported as campaign expenditures on the Committee's 2005 Report of Receipts and Expenditures.
14. There is probable cause to believe that Representative Davids produced and distributed idea solicitations between January 1, 2005 and July 31, 2005 and reported the costs as noncampaign disbursements for constituent services. The Board has previously found that such costs are to be reported as campaign expenditures. After August 1, 2005, a law went into effect specifically allowing idea solicitations to be paid for in the noncampaign disbursement category for constituent services. Given this specific legislative reversal of the Board's holding, the Board will not require the costs of idea solicitations to be reported as campaign expenditures on 2005 reports.
15. There is probable cause to believe that Representative Davids exceeded his 2005 spending limit of \$5,700 by spending a total of \$5,807.26, which is \$107.26 in excess of the limit.

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

### **ORDER**

1. Representative Davids has corrected the reporting deficiencies in his 2005 Report of Receipts and Expenditures with respect to his failure to sufficiently document noncampaign disbursements, particularly those for constituent services, and his failure to provide underlying detailed information for reimbursed expenditures. Representative

Davids and the Committee's treasurer are ordered for reporting year 2006 and subsequent years as follows:

(A) To include with each reported noncampaign disbursement for constituent services the date of the service, a detailed description of the nature of the service and the cost of the service.

(B) To provide sufficient description of each reported noncampaign disbursement to allow a reader of the report to make a determination of the appropriateness of the reporting category.

(C) To report with each reimbursement paid by the Committee, the date, amount, and payee for each underlying expense being reimbursed and a description of each underlying expense consistent with subparagraphs (A) and (B) above.

2. The allegations of the complaint based on insufficient reporting of noncampaign disbursements and reimbursements are dismissed, the violations having been cured.
3. Representative Davids and Committee's treasurer are ordered to follow those parts of Minnesota Statutes Chapter 10A related to the responsibilities and authority of the committee treasurer. Specifically, Minnesota Statutes, Section 10A.20, subd. 1, states that the Treasurer must file the periodic reports. Section 10A.025, Subd. 2, requires that the person who must file the reports is the person who must sign the reports and certify them to be true. Section 10A.17, subd. 1, prohibits a committee from spending any money unless the expenditure is authorized by the treasurer or deputy treasurer.
4. The allegations of the complaint that Representative Davids failed to properly reimburse his principal campaign committee for lodging costs in 2004 are dismissed.
5. The allegations of the complaint that Representative Davids misused mileage reimbursement for personal purposes are dismissed.
6. The allegations of the complaint that Representative Davids collected improper reimbursement from the Committee for his attendance at the 2004 NCOIL meeting are dismissed.
7. The allegations of the complaint that Representative Davids used the office he designates as his "constituent services office" for personal business purposes are dismissed.
8. For 2006 and subsequent years, Representative Davids must submit to the Committee's treasurer timely bills for expenses that are to be reimbursed, consistent with the requirements of Minnesota Statutes, Section 10A.18.
9. Representative Davids must amend his 2005 Report of Receipts and Expenditures to change the classification of pens imprinted with his name, position and telephone number from noncampaign disbursements to campaign expenditures.
10. If the amendment required by paragraph 9 of this report causes the committee to exceed its 2005 campaign expenditure limit, the Committee is directed to enter into the conciliation process with the Board.

11. The Committee treasurer must include in the Committee's 2006 reports the receipt of miscellaneous income resulting from the reimbursements paid by Representative Davids to the Committee.
12. The Board's investigation into this matter is hereby made a part of the public records of the Board pursuant to Minnesota Statutes, Section 10A.02, subd. 11. Board staff is directed to make photocopies of any original receipts or documents which the Committee wants returned; to substitute those photocopies in place of the originals; and to return the originals to the Committee. Upon receipt of the amended report directed in paragraph 9, this matter is concluded.

Dated: \_\_\_\_\_

8/15/06



\_\_\_\_\_  
Bob Milbert, Chair  
Campaign Finance and Public Disclosure Board

## Relevant Statutes and Administrative Rules

### Statutes

#### Minnesota Statutes, Chapter 10A

##### 10A.01 Definitions.

Subdivision 1. **Application.** For the purposes of this chapter, the terms defined in this section have the meanings given them unless the context clearly indicates otherwise.

...

Subd. 26. **Noncampaign disbursement.** "Noncampaign disbursement" means a purchase or payment of money or anything of value made, or an advance of credit incurred, or a donation in kind received, by a principal campaign committee for any of the following purposes:

...

(6) services for a constituent by a member of the legislature or a constitutional officer in the executive branch, including the costs of preparing and distributing a suggestion or idea solicitation to constituents, performed from the beginning of the term of office to adjournment sine die of the legislature in the election year for the office held, and half the cost of services for a constituent by a member of the legislature or a constitutional officer in the executive branch performed from adjournment sine die to 60 days after adjournment sine die;

...

(8) payment for food or a beverage consumed while attending a reception or meeting directly related to legislative duties;

...

(10) payment by a principal campaign committee of the candidate's expenses for serving in public office, other than for personal uses;

##### 10A.025 Filing requirements.

...

Subd. 2. **Penalty for false statements.** A report or statement required to be filed under this chapter must be signed and certified as true by the individual required to file the report. The signature may be an electronic signature consisting of a password assigned by the board. 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.

##### 10A.17 Expenditures.

Subdivision 1. **Authorization.** A political committee, political fund, principal campaign committee, or party unit may not expend money unless the expenditure is authorized by the treasurer or deputy treasurer of that committee, fund, or party unit.

### **10A.18 Time for rendering bills, charges, or claims; penalty.**

A person who has a bill, charge, or claim against a political committee, political fund, principal campaign committee, or party unit for an expenditure must render in writing to the treasurer of the committee, fund, or party unit the bill, charge, or claim within 60 days after the material or service is provided. A person who violates this section is subject to a civil penalty imposed by the board of up to \$1,000.

### **10A.20 Campaign reports.**

Subdivision 1. **First filing; duration.** The treasurer of a political committee, political fund, principal campaign committee, or party unit must begin to file the reports required by this section in the first year it receives contributions or makes expenditures in excess of \$100 and must continue to file until the committee, fund, or party unit is terminated.

Subd. 1a. **If treasurer position is vacant.** If the position of treasurer of a principal campaign committee, political committee, political fund, or party unit is vacant, the candidate, chair of a political committee or party unit, or association officer of a political fund is responsible for filing reports required by this section.

. . .

Subd. 13. **Third-party reimbursement.** An individual or association filing a report disclosing an expenditure or noncampaign disbursement that must be reported and itemized under subdivision 3, paragraph (g) or (l), that is a reimbursement to a third party must report the purpose of each expenditure or disbursement for which the third party is being reimbursed. An expenditure or disbursement is a reimbursement to a third party if it is for goods or services that were not directly provided by the individual or association to whom the expenditure or disbursement is made. Third-party reimbursements include payments to credit card companies and reimbursement of individuals for expenses they have incurred.

## **Administrative Rules**

### **4503.0010 SCOPE.**

This chapter applies to the campaign finance activities of candidates and their principal campaign committees, political party units, political committees, and political funds regulated by Minnesota Statutes, sections 10A.11 to 10A.335.

### **4503.0100 DEFINITIONS.**

Subpart 1. **Scope.** The definitions in this part apply to this chapter and Minnesota Statutes, chapter 10A. The definitions in chapter 4501 and Minnesota Statutes, chapter 10A, also apply to this chapter.

. . .

Subp. 6. **Services for a constituent; constituent services.** "Services for a constituent" or "constituent services" means services performed or provided by an incumbent legislator or

constitutional officer for the benefit of one or more residents of the official's district, but does not include gifts, congratulatory advertisements, charitable contributions, or similar expenditures.