

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

**FINDINGS AND ORDER IN THE MATTER OF THE  
MINNESOTANS FOR MATT (ENTENZA) COMMITTEE**

**Summary of Allegations and Responses**

The Campaign Finance and Public Disclosure Board (the Board) received an amended 2005 Report of Receipts and Expenditures for the Minnesotans for Matt (Entenza) Committee (the Committee) on February 27, 2006. A standard review of the Report by Board staff disclosed that the Committee accepted \$42,693.33 in aggregate contributions from political committees, political funds, lobbyists, and large contributors.

Candidate committees have an aggregate limit on contributions from certain types of contributors (special source limit) as provided in Minnesota Statutes, section 10A.27, subdivision 11. This statute sets a yearly limit on the total amount of contributions that a candidate's committee may receive from political committees, political funds, lobbyists, and large contributors. A "large contributor" is defined by this statute as "...an individual, other than the candidate, who contributes an amount that is more than \$100 and more than one-half the amount an individual may contribute". In 2005, the contribution limit from an individual to a candidate for the office of Attorney General was \$200. Therefore, a contribution from an individual of over \$100 was from a "large contributor" and counted against the special source limit.

In 2005, candidates for the office of Attorney General were limited to \$14,588 in aggregate contributions from special sources.

Of the \$42,693.33 in special source contributions accepted by the Committee, \$3,125 was from registered lobbyists, \$3,700 was from political committees or political funds, and \$35,868.33 was from individuals who contributed more than \$100. The total amount of these contributions exceeded the special source limit by \$28,105.33.

The excess contributions were not returned within 60 days as required in Minnesota Statutes, section 10A.15, subdivision 3. Therefore, the Committee accepted the excess contributions.

On March 3, 2006, Board staff notified the Committee of the apparent violation and asked for verification on certain items disclosed in the report. Alan Weinblatt, legal counsel for the Committee, responded on March 30, 2006. Mr. Weinblatt requested an extension until April 14, 2006, in order to prepare a formal response and complete the review of the Committee's records.

By letter dated April 13, 2006, Mr. Weinblatt responded for the Committee. Mr. Weinblatt stated, "After review of your letter and the committee's records, we have determined that the committee has inadvertently accepted contributions from special sources in excess of 20% of the 2005 attorney general expenditures limits..." Mr. Weinblatt further stated, "Campaign staff, in good faith, believed that because candidate Matt Entenza had not applied for or accepted a public subsidy there would be no expenditure limit applicable to his campaign for attorney general." Mr. Weinblatt's letter also provided an analysis of whether a candidate who declines to sign the public subsidy agreement, and therefore does not have a campaign expenditure limit, will still have a special source limit that is calculated as a percentage of the campaign spending limit. Mr. Weinblatt concludes his analysis by stating, "Because the individual contribution limits set by 10A.27, subd. 11, can be reasonably

interpreted in 2 ways, the committee believes that there should be no penalty assessed for those inadvertent excess receipts.”

Mr. Weinblatt also provided that, “Notwithstanding the foregoing factual and legal basis, Minnesotans for Matt did, on March 9 and 10, 2006, return all contributions received in 2005 from individuals in excess of \$100 to the extent that those aggregate contributions exceeded the total special source limit of \$14,588.” With the letter, the Committee provided a list of individuals to whom contributions had been returned.

Mr. Weinblatt and David Kaplan, Financial Director for the Committee, appeared before the Board in executive session on May 16, 2006. Mr. Kaplan explained that the Committee’s staff believed that the special source limit did not apply to the Committee because Representative Entenza declined to sign the public subsidy agreement. Mr. Weinblatt reviewed his analysis of the relevant statutes and asked the Board to waive penalties against the Committee.

At the May 16, 2006, meeting the Board voted to offer a Conciliation Agreement to the Committee to resolve the matter as provided in Minnesota Statutes, section 10A.28, subdivision 3. The Conciliation Agreement imposed a civil penalty of \$28,105, which is one times the amount by which the committee exceeded the applicable aggregate special source limit. The Conciliation Agreement also required the Committee to forward to the Board copies of the checks and the accompanying letters used to return the excess contributions.

By letter dated June 1, 2006, Mr. Weinblatt contacted the Board on behalf of the Committee and stated, “My client has received the Board’s proposed Conciliation Agreement. It does wish to enter into meaningful conciliation negotiations with the Board as contemplated by Minnesota Statutes 10A.28 subd. 3.” With the letter Mr. Weinblatt provided a proposed Conciliation Agreement that assessed the Committee a civil penalty of \$6,475.

The Board reviewed Mr. Weinblatt’s proposed Conciliation Agreement, testimony provided by Mr. Weinblatt and Mr. Kaplan, and correspondence from Mr. Weinblatt in executive session at the June 7, 2006, Board Meeting. The Board voted to decline Mr. Weinblatt’s proposed Conciliation Agreement and reaffirmed the terms of the Conciliation Agreement offered by the Board to the Committee on May 16, 2006.

Board staff informed Mr. Weinblatt of the Board’s actions by letter dated June 7, 2006. By letter dated June 14, 2006, Mr. Weinblatt acknowledged receipt of the letter from Board staff and provided his opinion that the Board was not negotiating in good faith to reach an agreement with the Committee.

By letter dated June 22, 2006, Felicia Boyd, Vice Chair of the Board, explained to Mr. Weinblatt and Representative Entenza the Board’s position. Ms. Boyd stated, “At this point in time the Board has made an offer to resolve this matter. The offer is fair, based on a review of the entire record, and is consistent with past decisions of the Board. ...To be clear, the Board has rejected your proposal. Our offer remains available for acceptance up to the time of the August 15, 2006, Board meeting. If this matter is not resolved at that time, the Board will issue its Findings and impose the fines set forth in the proposed Conciliation Agreement.”

By letter dated August 11, 2006, Mr. Weinblatt submitted a letter to the Board regarding the Committee’s position on the excess special source contributions. Mr. Weinblatt reiterated the Committee’s positions and referenced a recent court case on contribution limits.

Mr. Weinblatt appeared before the Board in Executive Session on August 15, 2006, to answer questions about the Committee's position on this matter.

The Board did not receive a signed Conciliation Agreement from Representative Entenza.

The Board considered this matter in executive session on May 16, 2006, June 7, 2006, and August 15, 2006. The Board's decision was based on correspondence from Mr. Weinblatt, testimony by Mr. Weinblatt and Mr. Kaplan, and Board records.

### **Board Analysis**

On behalf of the Committee, Mr. Weinblatt argues that the special source contribution limits imposed by Minnesota Statutes, section 10A.27, subdivision 11, do not apply to a candidate who has not agreed to a public subsidy under Minnesota Statutes, section 10A.25. The Board does not agree, and has consistently found that contribution limits, including special source limits, apply to candidates regardless of their acceptance or refusal of the public subsidy agreement.

The text of section 10A.27, which sets other contribution limits besides special source, uses the terms "a candidate" and "the candidate" without adjectives or other limiting language or limiting references. Nothing in the context of their use in that section indicates a meaning different from the definition of "candidate" provided by Minnesota Statutes, section 10A.01, subdivision 10. This definition does not contain any reference to public subsidy agreements.

A candidate who declines the voluntary campaign expenditure limits imposed by the public subsidy agreement has not freed their campaign from statutory contribution limits.

Mr. Weinblatt also states that the Board did not negotiate a Conciliation Agreement in good faith as required by Minnesota Statutes, section 10A.28, subdivision 3. That statute provides that if the Board finds that a candidate accepted excess contributions it must for a period of at least fourteen days attempt to enter into a Conciliation Agreement with the candidate. The Board notes that it first provided the Committee with a Conciliation Agreement on May 16, 2006, (thirteen weeks prior to the date of these Findings). The Board has carefully reviewed the Committee's position, but has not found its argument sufficiently compelling to negotiate a penalty lower than one times the amount of excess contributions accepted by the Committee. A penalty of one times the amount of the excess contribution(s) is standard for a first time violation of the statute. The Board has the authority to impose a fine of up to four times the amount of the excess contributions.

Having failed to enter into a Conciliation Agreement with Representative Entenza, the Board is obligated to issue Findings on the violation under Minnesota Statutes, section 10A.28, subdivision 4.

### **Relevant Statutes**

1. **Minnesota Statutes, section 10A.01, subdivision 10. Candidate.** "Candidate" means an individual who seeks nomination or election as a state constitutional officer, legislator, or judge. An individual is deemed to seek nomination or election if the individual has taken the action necessary under the law of this state to qualify for nomination or election, has received contributions or made expenditures in excess of \$100, or has given implicit or explicit consent for any other person to receive contributions or make expenditures in excess of \$100, for the purpose of bringing about the individual's nomination or election. A

2. candidate remains a candidate until the candidate's principal campaign committee is dissolved as provided in section 10A.24.
3. **Minnesota Statutes section 10A.27, subdivision 11. Contributions from certain types of contributors.** A candidate must not permit the candidate's principal campaign committee to accept a contribution from a political committee, political fund, lobbyist, or large contributor, if the contribution will cause the aggregate contributions from those types of contributors to exceed an amount equal to 20 percent of the expenditure limits for the office sought by the candidate, provided that the 20 percent limit must be rounded to the nearest \$100. For purposes of this subdivision, "large contributor" means an individual, other than the candidate, who contributes an amount that is more than \$100 and more than one-half the amount an individual may contribute.
4. **Minnesota Statutes section 10A.28, subdivision 3. Conciliation agreement.** If the board finds that there is reason to believe that excess expenditures have been made or excess contributions accepted contrary to subdivision 1 or 2, the board must make every effort for a period of at least 14 days after its finding to correct the matter by informal methods of conference and conciliation and to enter a conciliation agreement with the person involved. A conciliation agreement under this subdivision is a matter of public record. Unless violated, a conciliation agreement is a bar to any civil proceeding under subdivision 4.
5. **Minnesota Statutes section 10A.28, subdivision 4. Civil action.** If the board is unable after a reasonable time to correct by informal methods a matter that constitutes probable cause to believe that excess expenditures have been made or excess contributions accepted contrary to subdivision 1 or 2, the board must make a public finding of probable cause in the matter. After making a public finding, the board must bring an action, or transmit the finding to a county attorney who must bring an action, in the District Court of Ramsey County or, in the case of a legislative candidate, the district court of a county within the legislative district, to collect a civil penalty as imposed by the board under subdivision 1 or 2. All money recovered under this section must be deposited in the general fund of the state treasury.

**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 the Minnesotans for Matt (Entenza) Committee accepted \$42,693.33 in contributions from special sources in 2005. The Board finds that the Minnesotans for Matt (Entenza) Committee exceeded the aggregate special source limit by \$28,105.33.

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

**Order**

1. The Board imposes a civil fine of \$28,105.33, which is one times the amount that the Minnesotans for Matt (Entenza) Committee exceeded the special source limit provided in Minnesota Statutes, section 10A.27, subdivision 11. This amount is consistent with penalties imposed on other candidates, including constitutional office candidates, who did not sign the public subsidy agreement and exceeded the special source limit. This civil penalty must be paid within 30 days.
2. The Minnesotans for Matt (Entenza) committee is directed to forward to the Board within 30 days copies of the checks and accompanying letters that were used to return the excess contributions.
3. If the Committee or Matt Entenza does not comply with the provisions of this order, the Board's Executive Director shall refer this matter to the Ramsey County Attorney for civil enforcement pursuant to Minnesota Statutes, section 10A.28.
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 Committee or Matt Entenza of the civil penalties imposed herein, the matter is concluded.

Dated: August 15, 2006



A handwritten signature in black ink, appearing to read "Bob Milbert", is written over a horizontal line.

Bob Milbert, Chair  
Campaign Finance and Public Disclosure Board