

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

Findings and Order in the Matter of Anoka Air Charter, Inc.

Summary of the Investigation

In response to an inquiry from the Campaign Finance and Public Disclosure Board (“the Board”) Senator Michael Jungbauer confirmed that Anoka Air Charter, Inc. (AAC), an association not registered with the Board, made a contribution of \$600 to his principal campaign committee, the (Michael) Jungbauer Volunteer Committee (the “Jungbauer Committee”), on February 22, 2006.

Minnesota Statutes, section 10A.27, subdivision 13(b), prohibits an unregistered association from making a contribution in excess of \$100 to a registered principal campaign committee unless, at the time the contribution was made, the unregistered association provides the recipient with the disclosure required by Minnesota Statutes, section 10A.20. An unregistered association that fails to provide the appropriate disclosure with the contribution is subject to a civil penalty of up to \$1,000.

Board staff notified AAC of the potential violation and afforded it an opportunity to respond. Michael Hayes, president of AAC, responded by letter of October 25, 2006, and by personal appearance in executive session at the Board’s meeting of January 9, 2007.

Mr. Hayes related that he worked late at his airport office on February 22, 2006, and went directly from the office to a fundraiser for Senator Michael Jungbauer, which was being held in a hangar at the airport. He intended to make a personal contribution to the Jungbauer committee, but because he did not have his personal check book with him, he took a company check to use in place of his personal check and gave it to the committee. Mr. Hayes stated that the corporate funds used for the donation were charged to his equity account in the company at the end of February. In a telephone interview with Board staff, Mr. Hayes indicated that AAC is a closely held corporation of which he is 95% owner.

When the funds were returned to AAC by the Jungbauer committee in September, 2006, by means of a check payable to “Anoka Air Charter”, they were deposited into the corporation’s bank account. Mr. Hayes states that the bookkeeping charge to his equity account was then reversed.

In his letter response, Mr. Hayes indicates that he was not aware of any restrictions on contributions by businesses, since the rules and regulations are not widely promulgated to business owners. He also states that the person who accepted the contribution on behalf of the Jungbauer Committee did not tell him that there was any problem with it.

According to Senator Jungbauer’s testimony before an Office of Administrative Hearings panel in a companion matter, the Senator knew that corporate contributions were prohibited. However, the collection and bank deposit of receipts from the fundraiser were entrusted to volunteers. These volunteers accepted and deposited the AEC check without any indication to Mr. Hayes that there was a problem.

The Jungbauer Committee did not recognize the problem until September when it entered data into the Board’s campaign finance software and received a warning message. When it refunded the contribution in September, the funds had been held for more than 60 days and, pursuant to Minnesota Statutes, Section 10A.15, subd. 3, were deemed accepted.

Board Analysis

Both the AEC and the Jungbauer Committee agree that the contribution was made by means of a corporate check and that the check was deposited into the Jungbauer Committee's bank account, resulting in the transfer of corporate funds to the committee. Michael Hayes, on behalf of AEC, also agrees that when the funds were returned, they went back into the corporate account where they remained.

For the purposes of Minnesota Statutes Chapter 10A, the corporation is an unregistered association, subject to the provisions of Minnesota Statutes, Section 10A.27, subd. 13, which strictly limits transfers from unregistered associations to principal campaign committees. According to the statute, an entity not registered with the Board may not make a contribution of more than \$100 to a candidate's committee unless the contribution "is accompanied by a written statement" providing specified disclosure information.

The unregistered association here takes the position that its contribution should not be prohibited because a bookkeeping entry changed it to an individual contribution. Acceptance of this reasoning could render the statutory limitations and mandatory disclosure provisions ineffective. While the Board accepts Mr. Hayes assertion that certain internal bookkeeping entries were completed, it finds them not relevant to characterization of the contribution under the statute.

The Board is also recognizes the fact that although Mr. Hayes did not understand the prohibitions applicable to this transaction, the Committee's candidate was aware of them, yet failed to put a process in place to prevent their violation. As the result of a separate investigation, the Board fined the Jungbauer Volunteer Committee \$500 for acceptance of the prohibited contribution and required the committee to return that part of the contribution that exceeded the \$100 statutory limit.

The Board wishes to emphasize that this decision is based on the provisions of Minnesota Statutes Chapter 10A related to contributions from unregistered associations. Under those provisions, contributions of up to \$100 are generally permitted. The Board understands that provisions of Minnesota Statutes Chapter 211B prohibit corporate contributions entirely. The decision in this matter should not be construed to sanction corporate contributions in any amount.

This matter was considered by the Board in executive session on November 28, 2006, on January 9, 2007 and on February 13, 2007. The Board's decision is based on the information provided by Anoka Air Charter, Inc. and the (Michael) Jungbauer Volunteer Committee; the testimony of Michael Hayes at the January 9, 2007, Board meeting; results of the Board investigation; and Board records.

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

Findings Concerning Probable Cause

1. There is probable cause to believe that Anoka Air Charter, Inc. inadvertently violated Minnesota Statutes, section 10A.27, subd. 13, when it made a contribution in excess of \$100 to the (Michael) Jungbauer Volunteer Committee without providing the required disclosure.

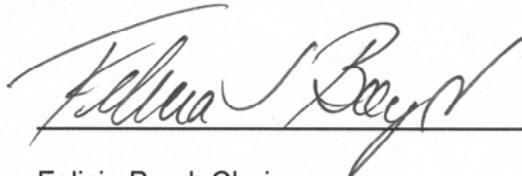
2. There is probable cause to believe that this contribution was not returned within 60 days as provided in Minnesota Statutes, section 10A.15, subd. 3.

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

ORDER

1. The Board imposes a civil penalty of \$250 for making a contribution to a registered principal campaign committee without providing the disclosure required by Minnesota Statutes, section 10A.27, subd.13.
2. Anoka Air Charter, Inc. is directed to forward to the Board payment of the civil penalty, by check or money order payable to the State of Minnesota, within thirty days of receipt of this order.
3. If the Anoka Air Charter, Inc., 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, subd. 4.
4. The Board investigation of this matter is hereby made a part of the public records of the Board pursuant to Minnesota Statutes, section 10A.02, subd. 11, and upon payment by the civil penalty imposed herein, this matter is concluded.

Dated: February 13, 2007



Felicia Boyd, Chair
Campaign Finance and Public Disclosure Board

Relevant Statutes

10A.15 Contributions.

Subd. 3. **Deposit.** All contributions received by or on behalf of a candidate, principal campaign committee, political committee, political fund, or party unit must be deposited in an account designated "Campaign Fund of (name of candidate, committee, fund, or party unit)." All contributions must be deposited promptly upon receipt and, except for contributions received during the last three days of a reporting period as described in section 10A.20, must be deposited during the reporting period in which they were received. A contribution received during the last three days of a reporting period must be deposited within 72 hours after receipt and must be reported as received during the reporting period whether or not deposited within that period. A candidate, principal campaign committee, political committee, political fund, or party unit may refuse to accept a contribution. A deposited contribution may be returned to the contributor within 60 days after deposit. A contribution deposited and not returned within 60 days after that deposit must be reported as accepted.

10A.27, subdivision 13. Unregistered association limit; statement; penalty. (a) The treasurer of a political committee, political fund, principal campaign committee, or party unit must not accept a contribution of more than \$100 from an association not registered under this chapter unless the contribution is accompanied by a written statement that meets the disclosure and reporting period requirements imposed by section 10A.20. This statement must be certified as true and correct by an officer of the contributing association. The committee, fund, or party unit that accepts the contribution must include a copy of the statement with the report that discloses the contribution to the board. This subdivision does not apply when a national political party contributes money to its affiliate in this state.

(b) An unregistered association may provide the written statement required by this subdivision to no more than three committees, funds, or party units in a calendar year. Each statement must cover at least the 30 days immediately preceding and including the date on which the contribution was made. An unregistered association or an officer of it is subject to a civil penalty imposed by the board of up to \$1,000, if the association or its officer:

(1) fails to provide a written statement as required by this subdivision; or

(2) fails to register after giving the written statement required by this subdivision to more than three committees, funds, or party units in a calendar year.

(c) The treasurer of a political committee, political fund, principal campaign committee, or party unit who accepts a contribution in excess of \$100 from an unregistered association without the required written disclosure statement is subject to a civil penalty up to four times the amount in excess of \$100.