

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

**FINDINGS REGARDING THE
(MICHAEL) HATCH FOR ATTORNEY GENERAL COMMITTEE**

Procedural Background

Campaign Finance and Public Disclosure Board (the Board) staff reviews the content of all filed reports. Review of the (Michael) Hatch for Attorney General Committee's (the Committee) Report of Receipts and Expenditures for the period covering January 1, 2004, through December 31, 2004, disclosed campaign expenditures that, without further explanation of their purpose, did not appear to fit the definitions of campaign expenditures (Minn. Stat. §10A.01, subd. 9) nor noncampaign disbursements (Minn. Stat. §10A.01, subd. 26).

Minn. Stat. §10A.20, subd. 3 (g), requires that committees disclose the purpose of each expenditure in excess of \$100. On March 7, 2005, the Committee was asked for clarification of certain expenditures. In response the Committee filed an amendment to the 2004 Report of Receipts and Expenditures by letter dated March 21, 2005. The amendment addressed some issues, but did not resolve three concerns. First, the amendment failed to disclose sufficient detail on the purpose of six disbursements in order for the Board to determine if the disbursements were correctly categorized as campaign expenditures. Second, the amendment did not disclose the purpose of \$4,634 reimbursed to the Attorney General by the Committee for "Mileage". Third, the amendment disclosed an \$800 bus rental but did not indicate the purpose of the bus rental.

The Board reviewed the amendment in executive session at the April 26, 2005, Board meeting. The Board voted to open a formal investigation into certain expenditures. Staff was directed to notify the Committee of the investigation and to ask the committee for additional information on the purpose of six specific expenditures and whether any of the expenditures related to travel or the bus rental were made to benefit another principal campaign committee or candidate. Minn. Stat. §10A.27, subd. 9, prohibits a candidate's principal campaign committee from making a cash or in-kind contribution to another principal campaign committee unless the committee making the contribution terminates its registration within 12 months of making the contribution. On May 5, 2005, the Committee was notified of the investigation and the need for additional information.

By letter dated May 16, 2005, Attorney General Hatch responded for the Committee, and filed a second amendment to the Committee's 2004 Report of Receipts and Expenditures. The amendment recharacterized many of the expenditures previously reported as "gifts" as "fees" paid to volunteers working on behalf of the Committee. The amendment and accompanying letter detailed the purpose of all expenditures specifically referenced by the Board.

With the letter Attorney General Hatch provided a chart that itemized the purposes of the travel for which the committee reimbursed him. The Attorney General stated, "None of these expenditures for mileage or gasoline were made for the benefit of another campaign committee". In regard to the purpose of the bus rental the Attorney General provided, "The purpose of the bus rentals was to transport volunteers to areas where they would campaign for me as well as other candidates who run for office".

By letter dated May 31, 2005, Joseph W. Anthony, attorney for the Committee, requested to appear before the Board at the June 7, 2005, Board meeting. In Executive Session on June 7, 2005, the Board reviewed the response and amendment provided by the Attorney General. Based on the response and amendment Board members asked Mr. Anthony questions related to 1) what literature was distributed by volunteers transported in the rented buses, 2) if the volunteers transported in the rented buses campaigned for other candidates, and 3) the tax status of fees paid to committee volunteers. On June 9, 2005 the Board provided the questions to Mr. Anthony by letter.

Mr. Anthony responded to the Board's questions on behalf of the Committee by letter dated June 23, 2005. In response to the questions related to literature distributed by the volunteers Mr. Anthony stated, "On most occasions the bus would meet at the headquarters of the local Democratic campaign organization. Depending upon the degree of its organization, the local organization would provide literature for candidates such as John Kerry, the congressional candidate, and the House candidate. On some occasions, the organization might not have any literature".

In response to questions related to the activities of the volunteers transported on the bus Mr. Anthony provided, "The second and third questions you raise appear to be directed to whether the use of a bus was to aid a particular candidate. The answer is that the bus was utilized to aid Mike Hatch". Mr. Anthony further provided, "...I presume that your question is directed to whether the bus was utilized for a particular candidate, thus requiring an "in-kind" contribution being made by the Committee, and the answer is there has been no "in-kind" contribution to any candidate".

In response to the question of the tax status of fees paid to Committee volunteers Mr. Anthony stated, "As part of our classification of the gifts as "fees", we did file a form 1099 with the Internal Revenue Service".

The Board did not rely on legal counsel from the Office of the Attorney General while conducting the investigation or preparing these findings. The matter was considered by the Board in executive session at its meetings on April 26, June 7, and July 19, 2005. The Board's decision was based upon the responses from Attorney General Hatch, Joseph W. Anthony, and records filed with the Board.

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

EVIDENTIARY FINDINGS

1. Minn. Stat. §10A.01, subd. 9, defines a “campaign expenditure” as 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. The statute further provides that services provided without compensation by an individual volunteering personal time on behalf of a candidate or principal campaign committee is not a campaign expenditure.
2. Minn. Stat. §10A.01, subd. 26, defines a “noncampaign disbursement” as the purchase or payment of specific items enumerated in statute or administrative rule adopted by the Board.
3. Minn. Stat. §10A.01, subd. 10, defines a “candidate” to include an individual who seeks election as a state constitutional officer and who has received contributions or made expenditures in excess of \$100. Attorney General Hatch is a candidate under Chapter 10A.
4. Minn. Stat. §10A.01, subd. 13, defines a “donation in kind” as anything of value that is given other than money or negotiable instrument.
5. Minn. Stat. §10A.105 provides that a candidate must designate a single “principal campaign committee” for each office sought once the candidate receives contributions of over \$100 or the candidate signs the public subsidy agreement. The Committee is the principal campaign committee of Attorney General Hatch.
6. Minn. Stat. §10A.20, subd. 3 (g), provides that the Report of Receipts and Expenditures filed with the Board by principal campaign committees must detail expenditures in excess of \$100 by providing the vendor name, address, date, amount and purpose of each expenditure.
7. Minn. Stat. §10A.27, subd. 9, provides that a principal campaign committee may not make a contribution to another candidate’s principal campaign committee, except when the contributing committee is being dissolved within 12 months.
8. There is evidence that the Committee has now filed amendments to the Committee’s 2004 Report of Receipt and Expenditures that provide the purpose of all campaign expenditures made by the committee.

9. There is evidence that the “mileage” reimbursements issued to the Attorney General by the Committee were for the purpose of paying for travel that benefited the campaign of the Attorney General.
10. There is evidence that the Committee paid for bus rentals to transport Committee volunteers for campaign activities that benefited the Committee. There is evidence that while campaigning for the Committee these volunteers also distributed literature for other candidates.
11. There is evidence that the volunteers were provided literature for other candidates by local party units. There is no evidence that the Committee coordinated the distribution of campaign literature for other candidates.
12. There is no evidence that the Committee required the Committee’s volunteers to distribute the literature of other candidates when the volunteers campaigned for the Committee.

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

FINDINGS CONCERNING PROBABLE CAUSE

1. There is probable cause to believe that the (Michael) Hatch for Attorney General Committee inadvertently violated Minn. Stat. §10A.20, subd. 3(g), by failing to provide the purpose of certain campaign expenditures made by the Committee. The reporting violation having been cured, there is no probable cause to believe that this violation continues to exist.
2. There is no probable cause to believe that the (Michael) Hatch for Attorney General Committee violated Minn. Stat. §10A.20 by reporting campaign expenditures for “fees” to “volunteers”.
3. While the Board has no enforcement jurisdiction over Chapter 211B, consistent with its practice of identifying related issues regarding compliance with that chapter and its interest in proper characterization of campaign expenditures for the public subsidy program (over which the Board has jurisdiction), the Board alerts the (Michael) Hatch for Attorney General Committee and interested members of the public to the provisions of Chapter 211B.12 (stating, “Use of money collected for political purposes is prohibited unless the use is reasonably related to the conduct of election campaigns, or is a noncampaign disbursement as defined in Minn. Stat. 10A.01, subdivision 26”).

4. Volunteers who provide their services to one or more candidates are not making a donation in kind to the candidate(s). There is no probable cause to believe that the individuals transported on the buses rented by the (Michael) Hatch for Attorney General Committee were not volunteering their services to other candidates.
5. There is no probable cause to believe that the (Michael) Hatch for Attorney General Committee rented the buses as a donation in kind to benefit other candidates.

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

ORDER

1. The reporting violation having been cured, the Board's investigation regarding a possible violation of Minn. Stat. §10A.20, subd. 3(g), is dismissed in its entirety.
2. There being no evidence that the (Michael) Hatch for Attorney General Committee made expenditures or donations in kind to other candidates, the Board's investigation regarding a possible violation of Minn. Stat. §10A.27, subd. 9, is dismissed in its entirety.
3. The Board's investigation of this matter is hereby made a part of the public records of the Board pursuant to Minn. Stat. §10A.02, subd. 11. Board staff is directed to forward copies of these Findings to Attorney General Hatch and Joseph W. Anthony.

Dated: July 19, 2005



Terri Ashmore, Chair
Campaign Finance and Public Disclosure Board