

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

**Findings and Order in the Matter of the Complaint of Diana Sweeney  
Regarding John Melbye**

**The Allegations of the Complaint**

On July 8, 2013, the Campaign Finance and Public Disclosure Board accepted a complaint from Diana Sweeney. This complaint alleges that the 2012 year-end report of receipts and expenditures filed by Judge John Melbye does not list postage costs for a bulk mailing of his campaign literature.

In addition to the allegations in the complaint, the Board determined that the expenditure information provided on Judge Melbye's year-end report was incomplete because the vendor's name and address and the purpose of the expenditure were not listed for every expense. The Board also determined that although Judge Melbye's year-end report showed that he had not accepted any outside contributions, it did not specify that he had used only his own money to fund his campaign. On July 9, 2013, the Board notified Judge Melbye that he needed to amend his report to include all information required by Minnesota Statutes Chapter 10A.

**The Investigation**

Judge Melbye submitted a response to the complaint on July 15, 2013. Judge Melbye explained that the report form he used was the one given to him when he filed for office. He did not realize that this form was to be used only by local candidates. With his response, Judge Melbye submitted an amended report on the form used by state candidates.

Judge Melbye did not form a principal campaign committee because he used only his own money for his campaign. A candidate who is self-funded is not required to form a principal campaign committee. On his amended report, Judge Melbye specified that he was the source of all of the money spent by his campaign.

In his response, Judge Melbye stated that he had used one printing company for all of his campaign literature. This company prepared and mailed six pieces of literature. The company included the postage in the total cost charged to Judge Melbye for each piece. Judge Melbye reported some expenditures for campaign literature on his year-end report but did not specify that these expenditures included both the printing and the mailing of a piece.

Judge Melbye also said that when he was preparing his amended report, he realized that he had inadvertently omitted three campaign literature expenditures from his original year-end report. Judge Melbye included the three omitted expenditures on his amended report. He also submitted invoices from the printing company to support all of his printing and mailing expenditures.

Finally, on the amended report, Judge Melbye listed the name and address of every vendor to which he had paid more than \$100 and disclosed the purpose of each expenditure.

### **Board Analysis**

The Board has the authority to investigate all reports filed with it under Minnesota Statutes Chapter 10A. When the Board accepts a complaint, it exercises that authority to investigate all possible violations of Chapter 10A that might arise from the conduct alleged in the complaint or from the reports under review regardless of whether the complainant clearly and specifically raised those violations in the complaint.

The issue raised by the complaint and the Board's review of Judge Melbye's 2012 year-end report is whether Judge Melbye properly reported all contributions received and all expenditures made for that year. One of the purposes of Minnesota Statutes Chapter 10A is to promote accurate disclosure of a candidate's financial transactions so that the public can know how the candidate is raising and spending money. To further this goal, Minnesota Statutes section 10A.20, subdivision 3, requires a candidate to disclose on his campaign finance reports the name and address of anyone who contributes more than \$100 to the candidate. This statute also requires a candidate to report the name and address of anyone to whom the candidate paid more than \$100 and to state the purpose of those expenditures.

A candidate who spends only his own money on a campaign is not required to register a campaign committee with the Board. See Minn. Stat. § 10A.105, subd. 1 (registration requirement applies only when candidate accepts more than threshold amount in contributions from sources other than self). Minnesota Statutes section 10A.20, subdivision 6, however, provides that a candidate who does not form a committee still must file reports of receipts and expenditures with the Board. Those reports must disclose the information listed in Minnesota Statutes section 10A.20, subdivision 3.

In this matter, the initial year-end report filed by Judge Melbye did not contain all the statutorily required information about the source of his campaign funds. Three expenditures for campaign literature also were omitted from the year-end report. The report did not include the name and address of every entity to which Judge Melbye made expenditures in excess of \$100 or the purpose of every expense. Because Judge Melbye's report did not list the purpose of each expense, it was not clear that the expenditures to the printing company included both the printing and the mailing costs for his campaign literature. Given these omissions, Judge Melbye's initial year-end report did not comply with Minnesota Statutes section 10A.20, subdivision 3.

Minnesota Statutes section 10A.025, subdivision 2, provides that any individual who signs and certifies to be true a campaign finance report knowing that it contains false information or omits required information is subject to criminal and civil penalties. There is no evidence in the record suggesting that at the time he signed the initial report, Judge Melbye recognized that some expenses had been inadvertently omitted.

A candidate can remedy an inadvertent violation of the reporting requirements in Chapter 10A by amending his report. In the present case, Judge Melbye submitted an amended report that included all of his printing expenditures, the names and addresses of every entity to which he paid more than \$100, and the purpose of each expenditure. The amended report also specified that Judge Melbye had used only his own money to fund his campaign. When a reporting violation related to the inadvertent omission of a contribution or an expenditure is timely cured by an amendment to the report, Chapter 10A does not provide for the imposition of a civil penalty.

**Based on the evidence before it and the above analysis the Board makes the following:**

### **Findings**

1. Judge John Melbye's 2012 year-end report of receipts and expenditures did not include all of the contribution and expenditure information required by Minnesota Statutes section 10A.20, subdivision 3.
2. The omission of the required contribution and expenditure information was inadvertent, not knowing.
3. Judge Melbye timely filed an amended report that included all of the contribution and expenditure information required by Minnesota Statutes section 10A.20, subdivision 3.

### **Conclusion**

The timely filed report cured the reporting violations in this matter and there are no grounds for the imposition of a civil penalty.

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

### **ORDER**

The Board's investigation of this matter is concluded and hereby made a part of the public records of the Board pursuant to Minnesota Statutes section 10A.02, subdivision 11.

Dated: August 6, 2013

/s/ Andrew M. Luger

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Andrew M. Luger, Chair  
Campaign Finance and Public Disclosure Board

### Relevant Statutes

**Minn. Stat. § 10A.025, 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.

**Minn. Stat. § 10A.20, subd. 3. Contents of report.** (c) The report must disclose the sum of contributions to the reporting entity during the reporting period.

. . . .

(b) The report must disclose the name, address, and employer, or occupation if self-employed, of each individual or association that has made one or more contributions to the reporting entity, including the purchase of tickets for a fund-raising effort, that in aggregate within the year exceed \$100 for legislative or statewide candidates or ballot questions, together with the amount and date of each contribution, and the aggregate amount of contributions within the year from each source so disclosed. A donation in kind must be disclosed at its fair market value. An approved expenditure must be listed as a donation in kind. A donation in kind is considered consumed in the reporting period in which it is received. The names of contributors must be listed in alphabetical order. Contributions from the same contributor must be listed under the same name. When a contribution received from a contributor in a reporting period is added to previously reported unitemized contributions from the same contributor and the aggregate exceeds the disclosure threshold of this paragraph, the name, address, and employer, or occupation if self-employed, of the contributor must then be listed on the report.

. . . .

(g) The report must disclose the name and address of each individual or association to whom aggregate expenditures, including approved expenditures, have been made by or on behalf of the reporting entity within the year in excess of \$100, together with the amount, date, and purpose of each expenditure and the name and address of, and office sought by, each candidate on whose behalf the expenditure was made, identification of the ballot question that the expenditure was intended to promote or defeat, and in the case of independent expenditures made in opposition to a candidate, the candidate's name, address, and office sought. A reporting entity making an expenditure on behalf of more than one candidate for state or legislative office must allocate the expenditure among the candidates on a reasonable cost basis and report the allocation for each candidate.