

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

**Findings and Order in the Matter of the Complaint by Theodore Harasyn
regarding the Joe Salmon and the 56th Senate District Republican Party of Minnesota**

Evidence Used in These Findings

On March 8, 2011, the Campaign Finance and Public Disclosure Board (the Board) received a complaint from Theodore Harasyn regarding the actions of Joe Salmon as chair of the 56th Senate District Republican Party of Minnesota (SD 56). SD 56 is a political party unit registered with the Board and subject to the provisions of Minnesota Statutes Chapter 10A.

The complaint alleges that the manner in which Mr. Salmon conducted a fundraiser for the party unit prevented Megan Rooney, the treasurer of SD 56 at that time, from obtaining accurate information on contributions and expenditures made by the party unit as required by Minnesota Statutes, section 10A.13. The complaint also alleges that Mr. Salmon did not turn over to the treasurer payments received for tickets to the fundraiser for deposit in the SD 56 account in the ten day time period required in Minnesota Statutes, section 10A.15, subdivision 3 and Minnesota Rules Parts 4501.0100, subp. 9 and 4503.0300, subp. 3. Although not referenced in the complaint, the Board extended the investigation to include Minnesota Statutes, section 10A.17, subdivision 1, which requires the treasurer of a political party unit to authorize the expenditure of funds by a political party unit. An individual who knowingly violates Minnesota Statutes, section 10A.13, is subject to a civil penalty of up to \$1,000. An individual who violates the provisions of Minnesota Statutes, section 10A.15, subdivision 3, is subject to a civil penalty of up to \$1,000. There is no penalty established by statute for violation of Minnesota Statutes, section 10A.17, subdivision 1.

In support of the complaint Mr. Harasyn provided copies of e-mail exchanged between Mr. Salmon and Ms. Rooney on the operation and keeping of records for the fundraiser, and two e-mails sent by Mr. Salmon encouraging attendance at the fundraiser.

The e-mails between Mr. Salmon and Ms. Rooney occur on January 29, 2011. Ms. Rooney alerts Mr. Salmon that she will need to deposit proceeds from ticket sales for the fundraiser. In the e-mail Ms. Rooney writes, "Joe, is the gentlemen collecting money for the movie tickets aware of the fact that all money for the BPOU needs to be deposited w/in 10 days of its receipt? Does he have my address to bring them to me or should I go get them from him...What is this guys (sic) name and contact information?" Later that same day Mr. Salmon replies to Ms. Rooney and writes, "Chris, as a private individual, has the movie, printed the tickets and is selling them. Once the movie has been shown he will donate the profits to the BPOU." The Board notes that the designation "BPOU" is used by the Republican Party of Minnesota to refer to its local party units, which are called Basic Party Organizational Units.

The e-mails promoting the fundraiser are sent by Mr. Salmon to a distribution list on February 8 and 17, 2011. The February 8, 2011, e-mail provides that attending the fundraiser will cost fifteen dollars for one ticket or twenty five dollars for two tickets. The e-mail states that individuals should contact Mr. Salmon by phone or e-mail to reserve a ticket. The February 17, 2011, e-mail provides only Mr. Salmon's contact information for individuals who wish to attend the fundraiser.

On March 10, 2011, the Board provided Mr. Salmon with a copy of the complaint and asked that he respond to specific questions on the conduct of the fundraiser. Approximately one week later

Mr. Salmon and Chris Soukup came to the Board's office and met with staff to discuss the complaint. Mr. Soukup identified himself as the "Chris" referred to in the e-mail provided with the complaint.

A written response to the complaint was received by the Board on April 1, 2011. The response was signed by Mr. Salmon. The Board subsequently learned from Mr. Salmon that the response was actually written by Mr. Soukup and that Mr. Salmon was either unaware of, or disagreed with, some of the statements included in the letter. The response confirmed that SD 56 conducted a "movie night fundraiser" on February 24, 2011. The response states that the fundraiser was authorized by the Executive Committee of SD 56 on December 4, 2010.

In response to a series of questions on the handling of money raised from the fundraiser the response states, "I received payment for tickets that I personally sold. When the donation amount required full name, address and place of work I was sure to collect that information. Checks were made payable to SD 56 Republicans with only 3 exceptions. The event raised a total of \$1,120.00." The response included a listing of twenty nine individuals who purchased tickets with cash (\$435) and twenty two individuals who purchased tickets by check made payable to the SD 56 (\$280). Additionally, Mr. Soukup was listed as purchasing twenty three tickets (\$345), and four individuals were listed as buying tickets from Mr. Soukup (\$85). The Board notes that the total proceeds listed amount to either \$1,145 or \$1,060 depending on whether the payments to Mr. Soukup for tickets are counted as additional revenue from the fundraiser.

Regarding the deposit of ticket proceeds the response states, "No money was deposited in an account that did not belong to the BPOU...Checks were asked to be written payable to SD 56 Republicans. Only 3 individuals, all of whom re-purchased tickets that had already been bought by Chris, made payments to Chris as an individual."

The response also provided a narrative of how Mr. Soukup became involved in the operation of the fundraiser. In recalling a meeting between Mr. Soukup and Mr. Salmon the response states, "As we discussed the task of making the event successful, both as a fun event and a fundraiser, Chris and I both realized that it would be a great deal of work and possibly very expensive. At this point Chris volunteered his time and said he would help with ticket sales. Also at this time, Chris informed me that he was willing to donate the room, video equipment, food and any other costs associated with the evening. This donation would be booked as in In Kind Donation. Because we viewed this act as a contribution, we did not consider the need to inform our treasurer of the resulting costs." Regarding the disclosure of the in-kind donation the response later provides, "We fully intend to report Chris' In Kind Donation on the next Campaign Finance Report."

The response denied that the treasurer of SD 56 (Megan Rooney) was deliberately excluded from the operation of the fundraiser, "At the January BPOU meeting we announced the event for the first time and began selling tickets. Many people, including our Treasurer, bought tickets at this meeting. This meeting provided plenty of opportunity for our Treasurer to confront Chris and ask him any questions. Not only did she choose to not express her opinions and concerns, she wrote a check ...and purchased a ticket from Chris." The response also states, "Our Treasurer had opportunities at the Executive Committee Mtg in December and at the BPOU Mtg in January to get involved in the event. Public announcements were made at these meetings, but she chose not to get involved."

In explanation as to why the proceeds from ticket sales were not turned over for deposit in the SD 56 account the response provides, "Following the February 24 event, two members of our BPOU became very vocal and expressed dissatisfaction with the way fundraising was being handled

within the BPOU. At that time our Treasurer and Vice Chair informed me that they would both be stepping down from their positions. Rumors of a complaint being filed with your office also began to circulate. ...Because of the tenuous situation within the BPOU I decided to withhold the funds raised from the movie night until we elected a new Treasurer on March 5, 2011."

Regarding the current status of the proceeds from the fundraiser the response provides, "Because our two most recent Treasurers have resigned the position, we are unable to submit an official account of the funds raised on February 24, 2011. Because of this situation, and with full acknowledgement that there is a small faction of unhappy members within our organization, we have decided to return every check and cash contribution made for this event."

Board staff called Mr. Salmon on the same day the response was received and left a message requesting that the proceeds from ticket sales not be returned to contributors pending the conclusion of the Board's investigation. In subsequent testimony Mr. Salmon stated that the proceeds had already been returned when he received the message. Board staff indicates that when Mr. Salmon and Mr. Soukup came to the Board offices shortly after the complaint was filed, staff advised them to turn the fundraiser proceeds over to the treasurer. They made no indication that they did not still have the proceeds.

Although Megan Rooney was not identified as a complainant in this matter it became obvious from e-mail communication with Board staff that she was aware of the complaint and that she would have knowledge of events needed for the Board investigation. Ms. Rooney agreed to provide a sworn recorded statement to Board staff on April 6, 2011. Ms. Rooney described her working relationship with Mr. Salmon as difficult. Disputes with Mr. Salmon over the fiscal operation of SD 56 had occurred prior to the movie night fundraiser. Ms. Rooney acknowledged that she did buy a ticket to the fundraiser from Mr. Soukup but maintains that during that transaction she expressed concerns over record keeping of contributors and the need to make checks payable to SD 56. Ms. Rooney provided Board staff with copies of SD 56 Executive Committee meeting minutes and SD 56 monthly meeting minutes from December 4, 2010 through minutes from a meeting held at the February 24, 2011, movie night fundraiser.

Mr. Salmon agreed to provide a sworn recorded statement to Board staff on May 5, 2011. It was during this statement that Board staff learned that the written response signed by Mr. Salmon was actually written by Mr. Soukup. Mr. Salmon stated that he did not collect any money from ticket sales. Instead, he directed individuals who contacted him about tickets to pay at the door. Mr. Salmon said that he asked that people contact him for tickets so that he would know how much food to order for the fundraiser.

Mr. Salmon explained that the treasurer elected to replace Ms. Rooney at the March 4, 2011 meeting of SD 56 resigned approximately one week later. The position of treasurer was then vacant until April 25, 2011, when Steve Ellenwood was appointed to the position by the Executive Council of SD 56. Mr. Salmon reiterated the position of the written response that the turnover and subsequent vacancy in the position of treasurer was a factor in why the proceeds from the fundraiser were not deposited in the SD 56 account.

As referenced earlier in this document, Mr. Salmon stated that the checks and cash from the sale of tickets had already been returned to contributors. Mr. Salmon also said that the decision to return the proceeds from ticket sales was made at an Executive Committee meeting, but was unsure of the date on which the meeting occurred. Mr. Salmon was asked to provide copies of the Executive Committee minutes for the meetings at which the position of treasurer was filled and the decision to return the fundraiser proceeds was decided.

On May 17, 2011, Mr. Salmon provided documentation requested during his statement. Mr. Salmon provided a copy of minutes from March 12, 2011, at which it was noted that Mr. Salmon still had possession of the money from the movie fundraiser pending the transfer of the duties and records to the new treasurer; and a copy of the Executive Committee meeting minutes from April 25, 2011, at which Mr. Ellenwood was appointed treasurer of SD 56.

With the copies of the minutes Mr. Salmon provided a written statement that, "As best I can tell, there was no official meeting held with the purpose of returning the checks. We have many unofficial meetings during the week. ...We don't consider these casual meetings as having anything to do with the BPOU officially, but we do discuss business relating to the BPOU. It was during these casual get togethers that the return of the checks was discussed."

Board Analysis of Allegations

Although the complaint focuses on the actions of Mr. Salmon in organizing and administrating the movie night fundraiser held by SD 56 the real issue appears to be a conflict between the authority and role of the party unit's treasurer and the authority and role of the party unit's chair. Both positions are required for a political party unit that registers with the Board. The Board often works with the individuals holding both positions in resolving reporting or compliance issues. However, it is the treasurer position that is responsible for maintaining the financial records of the committee, and ultimately, is responsible for providing accurate public disclosure as required by Minnesota statutes. The Board considered the treasurer's need to be informed of the committee's financial activity as the primary concern when evaluating the actions of Mr. Salmon as described in the complaint.

Although these findings apply specifically to the actions of Mr. Salmon and SD 56 the Board also takes this complaint as an opportunity to provide a review of the role of the treasurer in any political party unit. The issues that arose during the movie night fundraiser have arisen in the operation of other party units that have contacted the Board for guidance in resolving conflicts between the duties of the treasurer and the authority given to other party unit officers.

The Board's investigation of the complaint considered the actions of Mr. Salmon in the context of the following three statutes.

Authority to make expenditures - Minnesota Statutes, section 10A.17, subdivision 1.

This statute provides in part that "... [a] party unit may not expend money unless the expenditure is authorized by the treasurer..." The Board understands this statute as a safeguard to the finances of the party unit, but does not view it as giving the treasurer veto power over authorized party unit expenditures.

For example, party unit members, including the chair, may not make expenditures on the party unit's behalf unless previously authorized by the party unit. The authorization will typically be for a specific amount and item, but may be a more general authority to buy the needed items for a party unit function where the specific items or costs are not detailed. In either case Minnesota Statutes, section 10A.17, subdivision 1, requires that the treasurer be aware of the spending authority so that he or she may authorize the proper reimbursements and insure that record keeping occurs. The treasurer does not have the authority to deny reimbursements or decline to make expenditures authorized by the governing body of the party unit unless a reimbursement or expenditure violates a provision of Minnesota statutes.

Regarding this complaint, the decision to hold the movie night fundraiser, and specific decisions on location and ticket price, were made by the Executive Committee of SD 56 over the course of

several meeting starting in December of 2010. The minutes indicate that Mr. Salmon was authorized to carry out the fundraiser, and that Ms. Rooney was present at the meetings when the fundraiser is approved. Based on the evidence the Board has no reason to believe that Mr. Salmon's actions violated Minnesota Statutes, section 10A.17, subdivision 1.

Denying the treasurer records needed to keep accurate financial accounts - Minnesota Statutes, section 10A.13.

Minnesota Statutes, section 10A.13, provides in part that the treasurer is responsible to keep an account of the sum of all contributions made to the party unit, the name and address of each contributor of more than \$20 to the party unit, the date and amount of expenditures made by the party unit, and the date and amount of approved expenditures made on behalf of the party unit as well as a copy of the receipt for approved expenditures of more than \$100. An approved expenditure is a type of in-kind donation in which a good or service is purchased from a vendor by a contributor. In-kind donations are also in-kind expenditures that must be accounted for and reported by the treasurer.

While the treasurer is the individual responsible for keeping the required accounts of financial activity, all party unit members authorized to make expenditures or collect contributions are obligated to provide the treasurer with all records needed to accurately maintain the party unit's accounts. An individual who knowingly violates this statute by withholding records from the treasurer is subject to a civil penalty. The term "knowingly" excludes individuals who inadvertently withhold of records from the treasurer and individuals who know they have possession of a record but are not aware that there is a requirement to forward the record to the treasurer.

While the statute makes it clear that the treasurer is the curator of the committee financial records the statute itself does not establish a time frame for providing the needed records to the treasurer. That time frame is provided by Minnesota Rules Parts 4503.0500, subp. 3 and 4501.0100, subp. 9. When read together these rules require the transfer of receipts and records to the treasurer within ten business days.

The name and address of an individual who contributes more than \$20 to a party unit must be recorded at the time the contribution is made. A ticket to the movie night fundraiser was \$15. Therefore, SD 56 was not required to record information on most of the individuals who purchased tickets. (Mr. Soukup's name would be an exception because he bought \$345 worth of tickets.) None the less, from the list provided by Mr. Salmon it appears that the names of all individuals who purchased tickets, and the amount of the purchase, was recorded. This information, in particular the total amount raised by the movie night fundraiser, must be reported to the treasurer.

The value of Mr. Soukup's in-kind contribution of the costs associated with holding the movie night fundraiser is also a record that must be provided to the treasurer. In-kind contributions are unique in that an in-kind donation is reported twice, as a donation from the contributor and as an expenditure by the party unit or committee that benefits from the contribution. In the specific case of Mr. Soukup's in-kind donation the donation occurs on the night of the fundraiser when the value of the food consumed is determined. Once the total value of the in-kind donation is established it is a record that must be reported to the treasurer. Mr. Salmon's response provides that the information of Mr. Soukup's donation will be provided to the treasurer in time to be included on the 2011 year-end Report of Receipts and Expenditures. If Mr. Soukup has not already done so he should immediately provide information on his in-kind donation to the treasurer of SD 56, including copies of receipts documenting the cost of the fundraiser.

Exactly how forthcoming Mr. Salmon was in providing financial records to Ms. Rooney is a matter of contention. The response from Mr. Salmon (written by Mr. Soukup) states that Ms. Rooney had opportunities to ask Mr. Soukup for information and take part in the record keeping for the fundraiser if she so wished. Ms. Rooney contends that requests for information on the fundraiser were ignored by Mr. Salmon and Mr. Soukup. From the e-mail between Mr. Salmon and Ms. Rooney it appears that Mr. Salmon had no intention on providing information to Ms. Rooney until the fundraiser was over. In his email to Ms. Rooney, Mr. Salmon characterizes the event as a private event conducted by Mr. Soukup that will result in a single contribution from Mr. Soukup of the profits from the event. All other characterizations of the event indicated that it was an official party unit fundraiser. While the value of Mr. Soukup's in-kind donation cannot be reported until after the fundraiser occurs, it was a mistake to withhold information on the proceeds raised from ticket sales.

The Minnesota Rule requiring prompt transfer of receipts and records to the treasurer does not include an element of intent or knowledge. It is violated when an individual fails to comply with its requirements without regard to whether they knew of the rule or intended to violate it. The rule, however, does not provide for a civil penalty. The evidence supports a finding that both Mr. Salmon and Mr. Soukup violated Minnesota Rules 4503.0500, subd. 3, when they refused or failed to transfer receipts or records to the treasurer.

Failing to deposit contributions within 10 days of receipt – Minnesota Statutes, section 10A.15, subdivision 3.

Minnesota Statutes, section 10A.15, subdivision 3, requires that all contributions (including proceeds from a fundraiser) be deposited "promptly upon receipt" in the bank account of the party unit. Minnesota Rules Chapter 4501.0100, subpart 9, defines "promptly" as "within ten business days after the event that gave rise to the requirement." The two provisions taken together require that contributions be deposited in the committee account within ten business days of the funds coming into possession of the party unit.

This requirement was not met by either Mr. Salmon or Mr. Soukup for tickets sold either before the event or at the door on the night of the fundraiser. The movie night fundraiser occurred February 24, 2011. The record indicates that tickets were sold from January 24, 2011 through February 24, 2011. Regular deposits of receipts should have been promptly made during that period with the last deposit occurring not later than March 10, 2011. Instead, the minutes of SD 56 from March 14, 2011, state that Mr. Salmon still has the contributions from the event, but that he will work with the new treasurer to set up a new checking account for the party unit at which point the funds will presumably be deposited.

Mr. Salmon blames the failures in this endeavor in part on the status of the treasurer position. However, the record indicates that Megan Rooney remained treasurer until the party unit's convention on March 4, 2011. On that date another treasurer was elected and remained in place until after March 10, 2011, the date by which the final fundraiser proceeds should have been deposited.

Ultimately, the contributions never were deposited. Mr. Salmon explained that he believed that there was too much controversy surrounding the fundraising event. Without the benefit of any formal party meeting or action, apparently Mr. Salmon and others decided to return the funds to the contributors.

This is exactly the type of decision that should involve the treasurer. Any contribution may be returned if the party unit no longer deems it appropriate to accept the funds. But without a treasurer's involvement to provide internal control and accounting of what money is accepted and

what money is returned the ability of SD 56 to maintain accurate financial records is compromised.

No evidence was provided to the Board indicating that SD 56 funds were converted to personal use or otherwise misappropriated. In the Board's view the violations that occurred in this matter reflect both the conflict that existed in the party unit and, because the treasurer was not involved, a lack of understanding of statutory requirements regulating the operation of the committee. In this case the Board believes that a civil penalty will not achieve as much as education on the requirements of Chapter 10A. In lieu of a civil penalty the Board will offer the party unit, its officers, executive committee, Mr. Soukup, and interested party unit members an opportunity to participate in a training session on the requirements of Chapter 10A.

Based on the above Summary of the Facts and the Relevant Statutes, the Board makes the following:

Findings Concerning Probable Cause

1. There is no probable cause to believe that Mr. Salmon violated Minnesota Statutes, section 10A.17, subdivision , when he organized a fundraiser for SD 56, and accepted an approved expenditure from Mr. Soukup.
2. There is probable cause to believe that Mr. Salmon and Mr. Soukup violated Minnesota Statutes, section 10A.13, when they failed to provide financial records related to the conduct of the fundraiser for SD 56 to the treasurer. However, there is no probable cause to believe that this violation was done "knowingly", which is a requirement for the imposition of a civil penalty.
3. There is probable cause to believe that Mr. Salmon and Mr. Soukup violated Minnesota Statutes, section 10A.15, subdivision 3, and Minnesota Rules Parts 4503.0500, subd. 3 and 4501.0100, subp. 9, when they failed to provide the treasurer contributions received for the fundraiser within ten days of receipt.

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

Order

1. The Board orders the officers, executive committee, and Mr. Soukup to participate in a training session on the requirements of Chapter 10A with the Executive Committee of SD 56 which will be organized and conducted by the Board's Executive Director. This session must be publicized to and open to all interested party unit members.
2. If the SD 56 is fails or is unwilling to comply with the terms of paragraph 1 of this order, the Board imposes a \$500 civil penalty on the party unit for the failure to comply with Minnesota Statutes Section 10A.15, subd. 3. If Mr. Salmon or Mr. Soukup fails or is unwilling to comply with the terms of paragraph 1 of this order, the Board imposes on such person who fails to comply a \$500 penalty for failure to deposit or insure that contributions received for the party unit were deposited in the party unit account within ten days of receipt as provided by Minnesota Statutes, Section 10A.15, subd. 3.

3. If SD 56, Mr. Salmon, or Mr. Soukup does not comply with the provisions of this order, the Board's Executive Director may request that the Attorney General bring an action on behalf of the Board for the remedies available under Minnesota Statutes section 10A.34.
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, subdivision 11. This matter is concluded.

Dated: August 16, 2011

/s/ John Scanlon
John Scanlon, Chair
Campaign Finance and Public Disclosure Board

Relevant Statutes

Minnesota Statutes, section 10A.13 - ACCOUNTS THAT MUST BE KEPT.

Subdivision 1. **Accounts; penalty.** The treasurer of a political committee, political fund, principal campaign committee, or party unit must keep an account of:

- (1) the sum of all contributions, except any donation in-kind valued at \$20 or less, made to the committee, fund, or party unit;
- (2) the name and address of each source of a contribution made to the committee, fund, or party unit in excess of \$20, together with the date and amount of each;
- (3) each expenditure made by the committee, fund, or party unit, together with the date and amount;
- (4) each approved expenditure made on behalf of the committee, fund, or party unit, together with the date and amount; and
- (5) the name and address of each political committee, political fund, principal campaign committee, or party unit to which contributions in excess of \$20 have been made, together with the date and amount.

Any individual who knowingly violates this subdivision is subject to a civil penalty imposed by the board of up to \$1,000.

Subd. 2. **Receipts.** The treasurer must obtain a receipted bill, stating the particulars, for every expenditure over \$100 made by, or approved expenditure over \$100 made on behalf of, the committee, fund, or party unit, and for any expenditure or approved expenditure in a lesser amount if the aggregate amount of lesser expenditures and approved expenditures made to the same individual or association during the same year exceeds \$100.

Minnesota Statutes, section 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.

Minnesota Statutes, section 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.