

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

**Findings and Order in the Matter of the Investigation of Brandon Anderson and the
Brandon D. Anderson for SD6 committee.**

The Allegations

In July 2012, the Campaign Finance and Public Disclosure Board received notice of a stream of email messages that originated with Brandon Anderson, the Republican candidate for the legislative seat in Senate District 6. In the emails, Mr. Anderson proposed a plan to obtain the contributions necessary to qualify for public subsidy. The exact nature of Mr. Anderson's plan was not clear in the emails. It appeared that Mr. Anderson was proposing to reimburse individual candidates who donated to his committee or suggesting that he and the other candidates make equivalent contributions to each other's committees.

On July 26, 2012, the Board received a formal complaint regarding Mr. Anderson and the Brandon D. Anderson for SD6 committee. The complaint alleged that the fundraising scheme described in the emails was an attempt to defraud the taxpayers by obtaining public subsidy without actually raising the required contributions.

The Board's Executive Director reviewed the complaint and determined that it did not identify any provision in Chapter 10A that may have been violated. The Executive Director therefore declined to accept the complaint for investigation.

The Executive Director, however, brought the matter to the Board's attention at its August 7, 2012, meeting at which time the Board initiated its own investigation into Mr. Anderson's actions. The purpose of the investigation was to determine whether Mr. Anderson's fundraising mechanism violated the provisions of Chapter 10A or disqualified him from receiving public subsidy.

The Investigation

During its investigation, the Board obtained copies of Mr. Anderson's initial email message and the email responses to that message. Mr. Anderson and the seven candidates who contributed to the Anderson committee also responded to written questions sent to them by the Board. The following narrative is taken from those documents and Board records.

To qualify for public subsidy, the Brandon D. Anderson for SD 6 committee had to receive at least \$3,000 in contributions from people eligible to vote in Minnesota. The deadline to receive those contributions was July 23, 2012. Only the first \$50 of an individual's contribution could be counted toward the \$3,000 threshold.

On July 17, 2012, Mr. Anderson sent an email to the other Republican candidates for the state senate. Mr. Anderson began his email as follows, "Send me \$50 and I'll send you \$50. Simple. I am prepared to do such. I have the personal funds available."

Mr. Anderson explained that he was still \$800 short of the \$3,000 threshold needed to qualify for public subsidy and, due to personal and work commitments, he would not have the time necessary to raise those funds before the deadline. Mr. Anderson said that he got the idea to solicit donations from the other Republican candidates because they either were, or had been at some point, first-time candidates like himself and they all had a vested interest in electing other Republican legislators. Mr. Anderson then said, "So, send me \$50 and I'll send you \$50. Or if you have a spouse, go ahead and send \$100 and I'll return the same." Mr. Anderson concluded by saying "Checks or cash to 'Brandon D. Anderson for SD6'" and giving the address of his campaign committee.

Between July 17 and July 21, 2012, seven Republican candidates and five of their spouses made \$50 contributions to the Brandon D. Anderson for SD6 committee using personal funds. Mr. Anderson had made a \$50 personal contribution to one of these donors prior to his July 17 email and did not make any additional contributions to this donor. However, Mr. Anderson made contributions using personal funds to the principal campaign committees of five of the seven donors after his committee received their contributions in response to his email. Mr. Anderson's contribution to each of these principal campaign committees matched the amount that the candidate and that candidate's spouse had given to the Anderson committee.

Three of the five candidate committees promptly returned Mr. Anderson's contribution. One candidate committee kept Mr. Anderson's \$50 donation; the other kept Mr. Anderson's \$100 donation. There is no evidence that Mr. Anderson reimbursed any individual for a donation to the Anderson committee.

Board staff routinely conducts targeted audits of the contribution records of candidates who raised only 10% more in cash contributions from individuals than the amount required to qualify for public subsidy. The audit threshold for a state senate candidate is \$3,300. The Brandon D. Anderson for SD6 committee reported raising \$3,058.53 in cash contributions from individuals. The Board therefore audited the Anderson committee's contribution records prior to this investigation. After examining the committee's financial records, Board staff concluded that the Anderson committee had raised the contributions necessary to qualify for public subsidy.

Board Analysis

The Board has the authority under Minnesota Statutes section 10A.02, subdivision 10, to investigate any matter related to the statements and reports that must be filed with it under Chapter 10A. The first issue raised by Mr. Anderson's fundraising mechanism is whether the donations that the Anderson committee received from the other candidates can be counted toward the contribution threshold needed to qualify for public subsidy.

Minnesota Statutes section 10A.323 provides that to be eligible to receive public subsidy,

a candidate or the candidate's treasurer must file an affidavit with the Board stating that between January 1 of the previous year and the cutoff date for transactions included in the report of receipts and expenditures due before the primary election the candidate has accumulated contributions from persons eligible to vote in this state in at least the amount indicated for the office sought, counting only the first \$50 received from each contributor.

The amount required to qualify for public subsidy for a state senate candidate is \$3,000.

In the present case, the Anderson committee received \$600 of the required \$3,000 threshold amount from the personal funds of other candidates or their spouses. Nothing in Minnesota Statutes section 10A.323 prohibits a candidate from counting a contribution from another candidate or a candidate's spouse toward the threshold required to qualify for public subsidy. Instead, the only requirement in the statute is that the contribution be from a person eligible to vote in Minnesota. There is nothing in the record that suggests that any of the donating candidates or their spouses were not eligible to vote in this state. Consequently, Mr. Anderson did not violate section 10A.323 by counting donations from other candidates or their spouses toward the contribution threshold needed to qualify for public subsidy.

Chapter 10A requires a candidate to raise a specified amount through small contributions from eligible voters in order to qualify for public subsidy. The purpose of this requirement is to ensure that a candidate has at least a minimal amount of voter support before state public subsidy money will be provided to assist in that candidate's election effort. Although an exchange of contributions between candidates does not violate Chapter 10A, it is inconsistent with this purpose. Nevertheless, if such contributions are to be excluded from those that qualify a candidate for public subsidy, it would be up to the legislature to implement a statutory change.

The second issue raised by Mr. Anderson's fundraising mechanism is whether this scheme circumvented any provisions in Chapter 10A. Minnesota Statutes section 10A.29 states, "An individual or association that attempts to circumvent this chapter by redirecting a contribution through, or making a contribution on behalf of, another individual or association is guilty of a gross misdemeanor and subject to a civil penalty imposed by the board of up to \$3,000."

If the facts in this case had shown that Mr. Anderson had given money to any individual in return for that individual's contribution to the Anderson campaign, that reimbursement would have been circumvention in violation of section 10A.29 because Mr. Anderson would have been redirecting his own money to his own committee through a third-party contributor.

Instead of returning money to the individual who contributed to the Anderson campaign, however, Mr. Anderson contributed money to that individual's campaign committee. The recipient campaign committee is an entity closely aligned with the contributing candidate and Mr. Anderson's contribution arguably provided an indirect benefit to that individual candidate.

Under Minnesota Statutes section 211B.12, however, money given to a candidate's committee can be used only for purposes reasonably related to the conduct of an election campaign or for a noncampaign disbursement as defined in Chapter 10A. Because this statute strictly limits how the candidate's committee could use Mr. Anderson's contribution, that contribution cannot be considered a return of contribution to the contributing individual, or a redirection of a contribution through that individual. Mr. Anderson's fundraising mechanism therefore did not constitute circumvention under section 10A.29.

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

Finding Concerning Probable Cause

There is no probable cause to find that Brandon Anderson or the Brandon D. Anderson for SD6 committee violated Minnesota Statutes sections 10A.29 or 10A.323.

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

ORDER

The Board 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: May 7, 2013

/s/ Andrew M. Luger

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

Relevant Statutes

Minn. Stat. § 10A.029 Circumvention prohibited. An individual or association that attempts to circumvent this chapter by redirecting a contribution through, or making a contribution on behalf of, another individual or association is guilty of a gross misdemeanor and subject to a civil penalty imposed by the board of up to \$3,000.

Minn. Stat. § 10A.323 Affidavit of Contributions. In addition to the requirements of section 10A.322, to be eligible to receive a public subsidy under section 10A.31 a candidate or the candidate's treasurer must file an affidavit with the board stating that between January 1 of the previous year and the cutoff date for transactions included in the report of receipts and expenditures due before the primary election the candidate has accumulated contributions from persons eligible to vote in this state in at least the amount indicated for the office sought, counting only the first \$50 received from each contributor:

....

(4) candidates for the senate, \$3,000; . . .

....

The affidavit must state the total amount of contributions that have been received from persons eligible to vote in this state, disregarding the portion of any contribution in excess of \$50.

....