

IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

An Independent Agency of the Executive Branch

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BOARD MEMBERS:

James Albert, Chair
Janet Carl, Vice Chair
Gerald Sullivan
Betsy Roe
John Walsh
Patricia Harper

IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD
MINUTES
JULY 12, 2006
OPEN SESSION

HELD AT: Jessie Parker Building, 510 East 12th, Des Moines, Iowa

BOARD MEMBERS PRESENT: Jim Albert, Janet Carl (by phone), Gerald Sullivan, John Walsh, Betsy Roe, Pat Harper

STAFF PRESENT: W. Charles Smithson, Sandy Reier

1. CALL TO ORDER - The meeting was called to order by Chair Albert at 12:06 p.m.
2. ELECTION OF OFFICERS – It was moved by Sullivan and seconded by Harper that the present officers be reelected. Motion carried unanimously. Albert was elected chair and Carl vice chair.
3. APPROVAL OF MINUTES FROM MARCH 30, 2006 AND MAY 30, 2006 MEETINGS - It was moved by Harper and seconded by Sullivan that the minutes of the March 30, 2006 and May 30, 2006 meetings be approved as written. Motion carried.
4. ADJOURNMENT TO EXECUTIVE SESSION At 12:08 p.m. it was moved by Walsh and seconded by Sullivan that in accordance with the provisions of Iowa Code section 21.5, the Board go into executive session to discuss complaints, investigations, and personnel matters. Albert, Carl, Sullivan, Walsh, Roe, and Harper voted yes in roll call vote.

The meeting returned to Open Session at 1:55 p.m. and recessed. The meeting reconvened at 2:09 p.m.

5. ACTION FROM EXECUTIVE SESSION – It was moved by Sullivan and seconded by Roe that the written record of executive session action be made a part of the open record. Motion carried unanimously.

The following executive session action was taken.

Heartland PAC – It was moved by Walsh and seconded by Harper to decline to investigate the contribution from Iowans for Vilsack/Pederson to the Heartland PAC, a 527 committee, since the contribution has been returned and direct Counsel to prepare a legal memorandum of the issues surrounding the use of campaign funds and 527 organizations. Motion carried unanimously.

Sibley Fire Department – It was moved by Walsh and seconded by Sullivan to close the matter with no action against the fire chief concerning the allegation firemen were ordered to remove political signs, to notify the city attorney of the prohibitions on the use of public resources for political purposes and that future similar discussions should not be held at the city's fire department. This motion was withdrawn.

It was moved by Roe and seconded by Walsh to refer the matter to the county attorney in reference to the Chapter 721 and political duress issues and that Counsel look into proposing legislation to get this type of violation under the Board's jurisdiction. Motion carried unanimously.

Cass/Atlantic Development Corporation - It was moved by Roe and seconded by Harper to close the investigation with a finding of no probable cause to believe a violation occurred concerning the allegation that corporate resources were used for a political purpose. Motion carried unanimously.

Elliott Smith – It was alleged this individual impermissibly registered as a lobbyist within two years of leaving the Utilities Board. It was moved by Roe and seconded by Walsh to close the investigation with no action and that a rule be drafted to clarify that for purposes of Iowa Code section 68B.5A, full time board members will be considered the “executive or administrative heads” of an agency. Motion carried unanimously.

Mark Wandro – There is no evidence that Wandro was given a job in exchange for any decisions he made at DOT. It was moved by Walsh and seconded by Harper to close the investigation with a finding of no probable cause to believe that a violation of Board statute or rule occurred when this former DOT director accepted outside employment upon leaving state employment. Motion carried unanimously.

Nussle Campaign Reporting – It was determined that all activity was reported. It was moved by Sullivan and seconded by Harper to close the investigation with a finding of no probable cause to believe that a violation of a statute or rule under the Board’s jurisdiction occurred. Motion carried unanimously.

SE Polk School District – It was moved by Walsh and seconded by Roe that a Letter of Reprimand be sent to the school district for the posting of advocacy materials on the school’s Web site and a Letter of Reprimand be issued to the teacher, Bree Bartlett, for sending an advocacy email over the school’s system. Motion carried unanimously.

Burlington/West Burlington Chamber of Commerce – It was moved by Harper and seconded by Sullivan that a Letter of Reprimand for the use of corporate resources be sent to the Burlington/West Burlington Chamber of Commerce for an email advocating against a candidate. Motion carried unanimously.

Sergeant Bluff-Luton CSD – It was alleged that school resources were used to promote a ballot issue when school facilities were used and materials distributed at an open meeting. It was determined that the school district does have a policy that allows any group to use its meeting rooms. It was moved by Roe and seconded by Harper to close the investigation with a finding of no probable cause to believe that a violation of a Board statute or rule occurred. Motion carried unanimously.

The following committees failed to file VSR reports. It was moved by Sullivan and seconded by Walsh that each be assessed a \$25 civil penalty, that a Letter of Reprimand be issued and that they be admonished that if contributions are made in the future the Board expects full compliance. Motion carried unanimously.

- A. Universal Music Group PAC (North Carolina)
- B. America’s Foundation PAC (Pennsylvania)

Tim Brien – It was moved by Sullivan and seconded by Roe to investigate the alleged use of public funds for a political purpose. Motion carried unanimously.

Steve Lukan – It was moved by Sullivan and seconded by Harper to investigate whether contributions were accurately reported. Motion carried unanimously.

Dolecheck Fundraiser – It was moved by Walsh and seconded by Sullivan that Counsel be directed to provide a legal memorandum regarding the involvement of corporations in paying for certain portions of fundraising expenses. Motion carried unanimously.

Claghorn/Northey Endorsement – It was alleged that Northey promised Claghorn a job if she would drop out of the race for Secretary of Agriculture and endorse him. It was moved by Walsh and seconded by Roe to decline to investigate since nothing under Chapters 68A or 68B or the Board’s rules prohibit or address trading jobs for endorsements. Motion carried unanimously.

Tim Nobles Letter to the Editor – It was moved by Harper and seconded by Walsh to decline to investigate a letter to the editor since that falls under the press exception in the campaign laws. Motion carried unanimously.

Kendell Mailing with Vanderlinden Endorsement – It was moved by Walsh and seconded by Roe to decline to investigate the endorsement of a candidate by the Warren County Auditor since the Board has determined that it is not a conflict of interest for a county auditor to be involved with campaigns and still be the county commissioner of election. Motion carried unanimously.

Wheeler Email – It was moved by Roe and seconded by Walsh to decline to investigate an email as it does not violate rules on the misuse of public property. Motion carried unanimously.

Halsted Use of Filed Reports for Fundraising – It was moved by Walsh and seconded by Harper to decline to investigate the allegation Iowa campaign reports were used to solicit contributions since the Web site does not appear to be referring to Iowa campaign reports and the candidate's spouse has denied they used Iowa campaign reports. Motion carried unanimously.

Added to the list of future legislation to be discussed will be a law change to allow use of reports for soliciting contributions but not for commercial purposes.

Michael Medved Contributions/Christian Coalition – It was moved by Roe and seconded by Sullivan to investigate whether contributions from Michael Medved were accurately reported and decline to investigate that the Iowa Christian Alliance should be disclosing how it spends money it receives from candidate campaigns since it does not appear to be making contributions to Iowa committees that would trigger the requirement to file as a PAC and they do not register to lobby; direct Counsel to research IECDB Advisory Opinion 2003-12 that opines that candidates can use campaign funds to make contributions to the Christian Coalition for attendance at the Coalition's annual dinner, as such an event enhances the candidacy of the attendees. Motion carried unanimously.

Dennis Fiser for Sheriff Campaign – It was moved by Roe and seconded by Harper to investigate whether contributions were received from corporations, whether there were contributions in the name of another and whether the Hayden Fry endorsement was paid and should have been reported; decline to investigate the negative campaigning and truth in political advertising issue. Roe, Harper, Walsh, Carl and Albert voted yes. Sullivan abstained. Motion carried. The attribution statement violation will be referred to staff to resolve.

Watts Fundraiser at CLC Granger – It was moved by Carl and seconded by Sullivan to investigate whether resources of a corporation were used for a fundraiser and decline to investigate the issue of the fundraiser being held at a long term health care facility. Motion carried unanimously. The attribution statement violation is being resolved by staff.

Phone Call Survey – It was moved by Roe and seconded by Harper to decline to investigate the issue of negative campaigning and push polling as it is not illegal under the campaign laws. Motion carried unanimously.

Greg Orr – It was moved by Walsh and seconded by Harper to investigate whether a contribution from a lobbyist was received by the candidate during the legislative session and whether there was proper disclosure of the use of corporate offices for an event; decline to investigate the transfer of funds from one committee to another since the candidate in both committees is the same person. Motion carried unanimously.

Iowa Trappers Association/Ron Andrews – It was moved by Walsh and seconded by Carl to investigate whether lobbying was done without being registered and whether a conflict of interest exists between Mr. Andrews' work at DNR and rules the Iowa Trappers Association is interested in. Motion carried unanimously.

Southfield Wellness Community – It was moved by Roe and seconded by Carl to investigate the alleged use of corporate resources for a political purpose. Motion carried unanimously. Staff is resolving an attribution statement violation.

Contributions to Blouin - It was moved by Roe and seconded by Harper to investigate the allegations that contributions were received during the 30 days after session and direct Counsel to provide a legal memorandum concerning the prohibitions during session. Motion carried unanimously.

Dan Whitmore, Whitmore for House - It was moved by Sullivan and seconded by Walsh to adopt the Proposed Decision and Order of the Presiding Officer in Case No. 2005 IECDB 06. Motion carried unanimously.

Douglas Cunningham, Citizens for Cunningham - The Revised Default Decision and Order of the Presiding Office in Case No. 2006 IECDB 02 was received for information and accepted as final agency action.

Wes Whitead - It was moved by Walsh and seconded by Sullivan that the candidate be admonished to exercise care in the future after the committee originally failed to disclose \$785 in contributions and had to estimate dates due to lack of records. Motion carried unanimously.

Audit of DOT Contracts - It was moved by Sullivan and seconded by Harper to investigate whether former DOT employees were involved in DOT contracts in violation of Iowa Code section 68B.7. Motion carried unanimously.

Fair Market Value of Property - It was moved by Walsh and seconded by Sullivan that staff be directed to follow-up with an audit letter concerning property purchased and immediately valued at zero and that Counsel prepare a proposed rule on how equipment should be valued, including possibly a depreciation schedule. Motion carried unanimously.

Failure to File Campaign Bank Statements - It was moved by Walsh and seconded by Sullivan that a Letter of Reprimand be issued to the following for failure to file campaign bank statements with their January 19, 2006 reports. Motion carried.

1. Hart Election Committee
2. Citizens for Richards

Neal Schuerer - It was moved by Walsh and seconded by Sullivan that the committee be allowed to dissolve with no further action. Motion carried unanimously. Committee was referred after it spent \$408.36 to credit card companies for phone calls that may not all have been campaign related.

Karen Butler - It was moved by Walsh that a Letter of Reprimand be issued for failure to file a final bank statement. This motion was withdrawn.

It was moved by Roe and seconded by Walsh that the candidate be notified she has one final chance to provide the requested information. Motion carried unanimously.

Carl left at 1:45 p.m.

Citizens for Crowley - It was moved by Sullivan and seconded by Harper to take no action on a \$50 corporate contribution that was never reported received but return of the contribution was reported, and to issue a letter of admonishment to exercise care in the future concerning an illegal contribution of \$30 to another candidate (68A.301). Motion carried.

Roger Grobstich - It was moved by Roe and seconded by Sullivan to withdraw the statement of charges that was filed for failure to file a true and accurate report since the report has now been filed, and to issue a Letter of Reprimand for violation of Iowa Code section 68A.402A. Motion carried.

Narcisse/Iowa Bystander - It was moved by Roe and seconded by Walsh that a hearing be held to consider the candidate's request to appeal the Letter of Reprimand. Motion carried. Albert will be presiding officer.

Cost of Living Adjustment for Director - It was moved by Roe and seconded by Walsh to approve a 2% cost of living increase for the director. Motion carried.

6. PROPOSED ADVISORY OPINIONS

A. Running as Lieutenant Governor and Registering Committee/Filing Reports – It was moved by Roe and seconded by Harper that the opinion be approved as written. Motion carried.

B. Legislative Candidate Soliciting/Delivering Contributions for Another Candidate – It was moved by Walsh and seconded by Sullivan that the opinion be approved as written. Motion carried.

C. Placement of “Paid for By” Attribution on Emails/Opinion 2000-25 Modified – It was moved by Roe and seconded by Harper that the opinion be approved as written. Motion carried.

D. Separate Segregated Education PAC Accounts/Administrative Expenses – It was moved by Sullivan and seconded by Roe that the opinion be approved as written. Motion carried.

7. ADMINISTRATIVE ACTION

A. Delinquent Filers/Other Potential Violations – It was moved by Walsh and seconded by Harper that Statements of Charges be filed and hearings set for the following for failure to file disclosure reports. Motion carried.

1. Business Leadership Council – Sullivan was appointed presiding officer.
2. SITIPAC – Sullivan was appointed presiding officer.
3. Grundy County Democratic Central Committee – Sullivan was appointed presiding officer.
4. Fred Gilbert – Albert will be presiding officer.
5. Melanie Haas – Albert will be presiding officer.
6. Kathleen Williams – Albert will be presiding officer.

8. POLICY DECISIONS FOR THE BOARD TO MAKE

A. Purchases of Meal/Fundraising Tickets – It was moved by Roe and seconded by Harper that a candidate be permitted to accept funds from a federal candidate’s campaign committee so long as the funds are for tickets to meals that the federal candidate attends for the purpose of enhancing a candidacy and to implement a rule change to remove the \$25 cap for a ticket to a candidate’s meal fundraiser. Motion carried.

B. Contributions Made/Received During Session – It was moved by Roe and seconded by Walsh that Counsel prepare for Notice of Intended Action a new rule concerning contributions that are sent prior to the end of the session. Motion carried.

C. Blanket Consent for Sales – It was moved by Walsh and seconded by Harper that blanket consent on behalf of the Board and staff be filed to include the jurisdiction of the Board and why blanket consent is necessary, prohibiting the sale/lease of goods or services to campaign committees, lobbyists, known state or local government officials or employees, and any person under complaint, information provided to the Board, investigation, contested case or other specific or unusual set of factual circumstances that could lead to a conflict of interest under section 68B.2A except when consent is granted under rule 6.11. Motion carried.

D. Electronic Filing Vendor Information – Bids for hosting the Web Application have been requested.

9. BOARD RULES

A. Rules for Adoption – It was moved by Walsh and seconded by Sullivan to adopt the following rules. Motion carried.

1. Requires a registered candidate to file an amended statement of organization or a new statement of organization when the threshold for a new office is exceeded.
2. Amends rules for the filing of a report during the 10-day window a statement of organization is due.

3. Rescinds rule 4.48.

4. Removes requirement to submit joint corporate/PAC solicitation letter to Board.

B. Rules under Notice of Intended Action

1. Redraft of Chapter 1 – It was moved by Roe and seconded by Harper that 1.4(6) be deleted and subsequent subrules renumbered, that 1.1(2) be changed by adding “provided however” before members may be reelected or elected to a different office, and that the revised proposed rules be approved. Motion carried.

2. Civil Penalty for DR-OTC – It was moved by Sullivan and seconded by Walsh to approve the proposed amendment to rule 4.59(8). Sullivan, Walsh, Harper and Albert voted yes. Roe was out of room and did not vote. Motion carried.

3. Adding Leases/Blanket Consents – It was moved by Sullivan and seconded by Harper to approve for Notice of Intended Action amendments to 6.11 and 6.12. Sullivan, Harper, Walsh and Albert voted yes. Roe was out of the room and did not vote. Motion carried.

4. Government positions prohibited from engaging in political activities; adds section 8.7 to list of violations of which the Board may impose discipline; replaces a cite to a recently renumbered rule – It was moved by Sullivan and seconded by Harper to approve the proposed rules for Notice of Intended Action. Sullivan, Harper, Walsh and Albert voted yes. Roe was out of the room and did not vote. Motion carried.

5. Correction Advertisements – It was moved by Sullivan and seconded by Harper that proposed rules concerning correction notices be approved. Sullivan, Harper, Walsh and Albert voted yes. Roe was out of the room and did not vote.

C. Future Rules – It was moved by Sullivan and seconded by Harper that the following be referred to Counsel for future rules. Sullivan, Harper, Walsh and Albert voted yes. Roe was out of the room and did not vote. Motion carried.

1. Petition for Rulemaking – Identification of financial institution and account
2. Abuse of office and conflicts of interest
3. Use of uniforms for campaign purposes

10. REQUESTS FOR WAIVER OF CIVIL PENALTIES

Campaign Committees (Rule 351 IAC 4.60)

A. Statewide Committees – It was moved by Sullivan and seconded by Walsh that the following actions be taken. Motion carried.

1. Citizens for Cammie Pohl – Waive \$50 civil penalty.

2. Polk County Republican Women’s Club – Uphold \$50 civil penalty.

3. Public Safety Initiative – Uphold \$50 civil penalty.

4. Master Builders of Iowa PAC – Waive \$50 civil penalty.

5. Steve Swanson Campaign Committee – Reduce the \$200 civil penalty to \$50.

6. Slinger for Senate – Uphold the \$200 civil penalty for the late filed January 19, 2006 report and waive the \$100 civil penalty for the May 19, 2006 report.

7. Adams – Rural Voice – 2004 – Reduce \$200 civil penalty to \$100.

8. Stevens for State House – Uphold \$50 civil penalty.

B. County/Local Committees – It was moved by Sullivan and seconded by Walsh that the following action be taken. Motion carried.

1. Fremont County Democratic Central Committee - Waive \$20 civil penalty.
2. Monroe County Republican Central Committee - Waive \$50 civil penalty.
3. Ottumwans for Flanders (Wapello) - Uphold \$100 civil penalty.
4. Waund for Supervisor (O'Brien) - Uphold \$20 civil penalty.
5. Yes 4 Kids - Waive \$20 civil penalty and issue letter of admonishment.
6. Carroll County Democratic Central Committee - Uphold \$20 civil penalty.
7. McGinn for Council (Polk) - Uphold \$100 civil penalty.

C. Out of State PAC Committees (Rule 351 IAC 4.60) It was moved by Walsh and seconded by Harper that the following action be taken for late filed VSR reports. Motion carried.

1. VGM PAC - Uphold \$25 civil penalty.
2. Aquila PAC - Uphold \$25 civil penalty.
3. Roche Good Government Committee - Uphold \$50 civil penalty.

D. One-Time Contributor (Rule 351 IAC 4.60)

1. Townsend Engineering - It was moved by Sullivan and seconded by Walsh that the \$20 civil penalty assessed for a late filed DR-OTC report be waived. Motion carried.

E. Personal Financial Disclosures (Rule 351 IAC 7.6)

1. Mark Day - It was moved by Sullivan and seconded by Roe that the \$25 civil penalty assessed for a late filed personal financial disclosure report be waived. Motion carried.
2. Jeff Robinson - It was moved by Walsh and seconded by Sullivan that the \$25 civil penalty assessed for a late filed personal financial disclosure report be upheld. Motion carried.

F. Lobbyist/Client (Rule 351 IAC 8.12)

1. Patrick Rounds - It was moved by Walsh and seconded by Roe that the \$25 civil penalty assessed for a late filed executive branch lobbyist report be waived. Motion carried.

11. VIOLATIONS

A. Attribution Statement Violations (Iowa Code section 68A.405) - Correction advertisement information was received from the following:

1. Cynthia Manzer
2. Bob Hoodjer
3. State Public Policy Group
4. Deb Monson
5. Citizens for Sooter
6. Wade Wagner
7. Tom Cilek
8. There Is A Better Way
9. Elect Cathy Haustein
10. Anne Sheeder and Brenda Fiori

B. Late-Filed Statement of Organization (Iowa Code section 68A.201) - It was moved by Roe and seconded by Walsh that letters of admonishment be sent to the following for late-filed Statements of Organization. Motion carried.

1. Citizens for Richards
2. Slinger for Senate
3. Carroll County Democratic Central Committee
4. Cherokee County Republican Central Committee

5. Grundy County Democratic Central Committee
6. Humboldt County Democratic Central Committee
7. Muscatine County Democratic Central Committee
8. Ringgold County Republican Central Committee
9. There Is A Better Way Committee (Pottawattamie)
10. Committee to Elect Kenneth hach (Buena Vista)
11. Melissa O'Rourke Sioux County Attorney (Sioux)
12. KC Real Estate, L.C. (Polk and Warren)
13. Ottumwans for Flanders (Wapello)
14. Citizens for Bemrich (Webster)
15. Committee to Elect Linda Swanso (Clay)
16. LaVonne Bjergum (Winneshiek)
17. Johnston for Supervisor (Poweshiek)
18. Vest for Supervisor (Tama)
19. Committee to Elect Jack Chaney for Supervisor (Pottawattamie)
20. John Mineart for State Senate
21. Matthews for Supervisor (Clay)
22. Committee to Elect Tim Anderson (Black Hawk)

C. Late-Filed Notice of Dissolution (Iowa Code section 68A.402B) -- It was moved by Harper and seconded by Roe that a letter of admonishment be sent to the following for a late-filed Notice of Dissolution. Motion carried.

1. Abolt for Senate

D. Late-Filed Lobbyist Registration (Iowa Code section 68B.36) -- It was moved by Walsh and seconded by Sullivan that a letter of admonishment be sent to the following for a late-filed lobbyist registration. Motion carried.

1. Neila Seaman
2. Bill Find

At 3:19 p.m., it was moved by Sullivan and seconded by Walsh that the meeting be adjourned. Motion carried.

Respectfully submitted,



Sandra Reier
Secretary