

IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

An Independent Agency of the Executive Branch

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& Legal Counsel

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BOARD MEMBERS:
James Albert, Chair
John Walsh, Vice Chair
Saima Zafar
Carole Tillotson
Jonathan Roos
Mary Rueter

MINUTES

REGULAR MEETING

August 8, 2013 NOON
JESSIE PARKER BUILDING
510 EAST 12TH, Ste 1A
DES MOINES, IA

I. CALL TO ORDER

The meeting is called to order by Chair Albert at 12:05pm. Board members present: Albert, Walsh, Tillotson, Rueter, Roos.
Staff present: Megan Tooker, Sharon Wright, Cohl Bultje.

II. ELECTION OF OFFICERS

Motion by Tillotson to appoint Albert Chair and Walsh Vice Chair. Rueter moved nominations closed and unanimously approve. Roos second. Motion carries unanimously.

Zafar enters at 12:12 pm

III. APPROVAL OF MINUTES

1. November 16, 2012 open session
2. November 16, 2012 closed session

Motion by Walsh, Roos second, to approve minutes as written.
Rueter abstains. Walsh, Safar, Tillotson, Roos, ayes. Motion carries.

IV. PRESENTATION

10 minute presentation by Fred Karger & Danielle Avel regarding the complaint against National Organization for Marriage

Albert asks Karger and Avel to focus on the issue before the board: whether the complaint Karger filed against the National Organization for Marriage is "legally sufficient." Karger alleges NOM has not disclosed its contributors for a series of independent expenditures in Iowa although it solicited contributions for the organization's Iowa campaigns.

Albert asks Tooker if it is true that independent expenditure groups are not required to disclose contributors for independent expenditures unless contributions are specifically received for the purpose of the expenditure.
Tooker replies yes.

Tooker asks Karger if he believes the email attached to his complaint amounts to a request by National Organization for Marriage for earmarked funds. Karger replies yes.

V. ADJOURN TO CLOSED SESSION

Motion by Safar to adjourn to closed session, second by Rueter. Motion passes unanimously by roll call vote. The Board adjourns into closed session at 12:25 pm.

VI. RETURN TO OPEN SESSION-

The Board returns to open session at 1:12 pm after a 5 minute break. Albert states the board will review discussion in closed session and entertain motions on matters discussed in closed session.

1. Formal complaint against National Organization for Marriage – alleged violation of independent expenditure law

Albert states the matter before the Board is whether the complaint is legally sufficient to warrant investigating it further. Albert asks Tooker when the identification of donors is required by an independent expenditure committee. Tooker states that identification of donors is not required unless the donations were for the purpose of furthering the independent expenditure. Albert states that in this matter if donations were solicited for the purpose of defeating the Iowa Supreme Court Justices, then those donors should have been identified. Tooker agrees. Albert asks Tooker whether Karger's complaint alleges facts that if proven true constitute a violation of Iowa law. Tooker agrees and notes the September 2012 email from NOM is concerning.

Albert states the board reviewed in closed session NOM's response to the complaint. Albert specifically asks Tooker whether three points in NOM's response are correct representations of Iowa law. Tooker says no. Albert says he finds NOM's response troubling.

Motion by Walsh, Safar second, to find the complaint legally sufficient and order staff to investigate the matter. All ayes, motion passes unanimously.

2. Formal complaint against Mary Mosiman- alleged use of campaign funds for personal benefit

Motion by Walsh, second by Tillotson, to accept memorandum of understanding negotiated between Tooker and Mosiman's counsel. The memorandum acknowledges the law is ambiguous and indicates Mosiman has reimbursed her committee for the expenditures in question. Walsh notes Mosiman has done everything to correct an issue that may not have required a reimbursement.

Roos states he would like to see greater clarity on this point of law by either amending the board's administrative rules or issuing one or more advisory opinions.

Motion carries unanimously.

3. Formal complaint against Lois Schmitz-alleged conflict of interest

Tooker states that Schmitz and her husband own a small business that is a certified "targeted small business" and is exempt from bidding on state projects that are less than \$10,000. DAS provided evidence to indicate projects were broken up into several invoices in order to avoid the threshold that requires public bidding.

Albert asks Tooker if the State Auditor is investigating this matter. Tooker answers affirmatively. Albert says the consensus among the Board member is to stay any investigation until the Auditor's investigation is over.

Motion by Tillotson, second by Zafar, to find the complaint legally sufficient but to stay any board investigation until the Auditor's investigation is complete and the findings have been released. Motion carries unanimously.

4. Formal complaints against Iowa Workforce Development-alleged abuse of power

Motion by Rueter, second by Walsh, to dismiss complaints as not legally sufficient. None of the evidence or allegations made in the complaints is under the Board's jurisdiction.

Motion passes unanimously.

5. Board-initiated investigation into Johnston Community School District emails-alleged use of government resources for political purposes

Albert asks Tooker to summarize her recommendations for sanctions for the school district employees who sent emails from their district accounts that contained express advocacy.

Tooker states several employees sent an email to a family member or close friend. Tooker recommends an admonishment for those employees.

Tooker states several other employees either sent an email to a few people or responded favorably to a request to add their names to a letter to the editor that endorsed several candidates. Tooker recommends a reprimand for those employees.

Tooker states she believes two employees deserve more serious sanctions. One employee sent several emails asking parents (some of whom were district employees) to sign their names to a letter to the editor that endorsed several candidates. Tooker recommends a reprimand and a \$100 civil penalty. Another employee sent an email to her students' parents and encouraged them to vote in the school board election. The email also encouraged the parents to email the employee if they were interested in her recommendations on candidates. Two parents responded and the employee sent lengthy responses detailing why she was supporting certain candidates. Tooker recommends a reprimand and a \$100 civil penalty. The board also discussed ordering additional remedial action in the form of a letter of apology to the two parents who responded to the email.

Motion by Roos, Zafar second, to accept Tooker's recommendations and order the additional remedial action (apology letter). Motion passes unanimously.

VII. ADVISORY OPINIONS

1. To Steve Berger re: potential conflict of interest
Motion by Tillotson, Roos second, to approve proposed advisory opinion.
Motion passes unanimously.
2. To City of Ottumwa re: application of 68A.505 to political forum held at park
Motion by Rueter, Zafar second, to approve proposed advisory opinion.
Motion passes unanimously
3. To all interested parties re: attribution statement on social media sites
Motion by Roos, Zafar second, to approve proposed advisory opinion.
Motion passes unanimously

Discussion is held with regard to having quick telephonic meetings for waiver variance requests on a quarterly basis in order to speed up disposition of requests.

VIII. REQUESTS FOR WAIVER OF CIVIL PENALTIES (RULE 351 IAC 4.60)

1. STATE COMMITTEES (Rule 351 IAC 4.59(3))
 1. Garrett for Statehouse, late pre-general report, \$200 – recommendation: denial.
 2. Dave Edwards for Iowa Senate, late pre-general report, \$200- recommendation: reduce to \$50.
 3. Kennedy-Ode for Iowa, late 1/19/2013 report, \$50- recommendation: waive
 4. Askew for Agriculture, late 1/19/2013 report, \$100- recommendation: waive
 5. Steve Swanson Campaign Committee, multiple late reports, \$800 – recommendation: waive
 6. Ballard for State Representative, late 1/19/13 report, \$200 – recommendation: deny
 7. Committee to Elect Ray Ambrose, late 1/19/13 report, \$200 – recommendation: deny
2. STATE PACS (Rule 351 IAC 4.59(3))
 1. Democratic Women of Buchanan County, late 10/19/12 report, \$50 recommendation: reduction to \$25
 2. Iowa Veterans’ Victory Fund, late 10/19/12 report, \$50 – recommendation: waive
 3. Polk County Republican Womens Club, late 10/19/12 report, \$50 – recommendation: waive
3. OUT OF STATE PAC (VSR) (Rule 351 IAC 4.59(6))
 1. Rushmore PAC, 8/17/12 due date, \$25 – recommendation: deny
4. COUNTY COMMITTEES (Rule 351 IAC 4.59(2))
 1. Ohmart for Council, late 1/19/2013 report, \$20, Polk recommendation: reduction to \$10
 2. Committee to Elect Howard Ruter for Auditor, 10/19/13 report, \$20- recommendation: waive
 3. Ann Brau for Supervisor, 5/19/12 \$100, 7/19/12 \$50, 10/19/2012 \$50- recommendation: deny
 4. Re-Elect Andersen Supervisor Committee, 7/19/12 report \$100- recommendation: waive
 5. LeRoy E. DeBoer, 10/19/12 report, \$100- recommendation: waive

6. Friends to elect Bass, 5/19/12 \$100, 7/19/12 \$200, 10/19/12 \$200- recommendation: reduction of total penalties to \$50
7. Hobart for Supervisor, 5/19/12 report \$100, 7/19/12 \$200, 10/19/12 \$200- recommendation: reduce to balance of committee, \$77.24
8. Duane C. McFadden for County Supervisor, 5/19/12 \$100, 7/19/12 \$200, 10/19/12 \$200- recommendation: reduce total penalties due to \$100 for May report
9. Ashley for Supervisor 1/19/13 report \$20- recommendation: reduce to \$10
10. Ron Kohn 7/19/12 report \$50, 10/19/12 \$100- recommendation: deny
11. Freitag for Auditor 1/19/13 report \$100- recommendation: deny
12. Marilyn Dopheide Committee to Re-Elect Dopheide 1/19/12 \$100, 1/19/13 \$50- recommendation: deny
13. Glenice Graber for Recorder 1/19/13 report \$100- recommendation: waive
14. Ron Ravenwaay 10/19/12 report \$100, 1/19/13 report \$200- recommendation: waive
15. Amanda Waske for Ringgold County Auditor 1/19/13 report \$100- recommendation: deny
16. Nate Christensen for Sheriff 5/19/12 \$100, 7/19/12 \$200, 10/19/12 \$200, 1/19/13 \$100 – recommendation: reduction to total penalty amount of \$300.
17. Dick Meyer Campaign 7/19/12 \$100, 10/19/12 \$200- recommendation: deny
18. Marr for Supervisor 7/19/12 \$50, 10/19/12 \$100- recommendation: reduction to total penalty of \$75

5. LOCAL COMMITTEES (Rule 351 IAC 4.59(2))

1. Leo Parks for Mayor Okoboji Iowa 11/3/11 report \$50- recommendation: deny
2. Campaign to Elect Julie Allesee 1/22/13 report \$20- recommendation: waive
3. Committee for a Representative School Board 1/22/13 report \$100- recommendation: waive
4. Citizens for the Hotel/Motel Tax 10/19/12 report \$20- recommendation: reduction to \$10
5. Citizens for Quality Schools 1/11/13 report \$100- recommendation: deny
6. Citizen's for Waukee Aquatic Center (CWAC) 1/19/12 report \$100- recommendation: denial

Albert asked if any request should be pulled. Move to approve en bloc by Tillotson, Rueter second. Motion passed unanimously.

IX. NOTICE OF INTENDED ACTION

1. Amend Rule 351—4.44(1) to prohibit campaign contributions by LLC with corporate members
2. Amend Rule 351—9.1 to allow a complainant to attach up to 20 additional pages to a formal complaint

Motion by Tillotson, Safar second, to approve proposed notices of intended action. Motion passes unanimously.

X. IOWA RIGHT TO LIFE CASE UPDATE

Tooker states the Eight Circuit struck down as unconstitutional parts of Iowa's independent expenditure statute. The ruling was expected after the Eighth Circuit struck down parts of Minnesota's independent expenditure statute. The Eighth Circuit has upheld event-driven reporting of independent expenditures but has struck down ongoing reporting (i.e. during periods when there are no expenditures) by independent expenditure groups.

XI. LEGISLATIVE SESSION RECAP

Tooker goes over the three bills the board introduced last session:

1. A bill that would require independent expenditure groups to disclose their top 5 donors if they didn't use earmarked funds. The bill passed the Senate. Board members agreed the bill should be promoted again next session.
2. A bill that would allow the board's chair to determine the legal sufficiency of a complaint. Board members except for Roos agreed the bill should be promoted again next session. Roos strongly prefers board determination on legal sufficiency. The bill passed out of committee in the House.
3. A bill that would require executive branch employees and officials to report gifts in excess of \$100 from restricted donors. Board members agreed the bill should be promoted again. The bill passed the Senate.

Consensus among board members that the agency should advocate for a sixth employee.

Roos asks how the response was to the new personal financial disclosure program. Tooker says the response has been overwhelmingly positive. Neither Tooker nor Wright has heard any negative comments.

XII. ADJOURNMENT

Motion by Tillotson, Zafar second, to adjourn. Motion passes unanimously. Board adjourns at 2:08 pm

Respectfully Submitted,

A handwritten signature in black ink that reads "S Wright". The signature is written in a cursive, flowing style.

Sharon Wright, Administrative Assistant