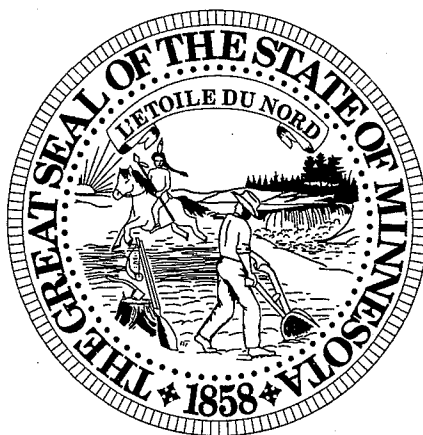


04 - 0457

**MINNESOTA  
CAMPAIGN FINANCE  
and  
PUBLIC DISCLOSURE BOARD**

**ANNUAL REPORT**

JULY 1, 2003 - JUNE 30, 2004



*The Ethics in Government Act establishing the Campaign Finance and Public Disclosure Board passed in 1974. In its 30-year history the Board's goal has been to promote public confidence in state government decision-making through development, administration, and enforcement of disclosure and public financing programs, which ensure public access to and understanding of information filed with the Board.*

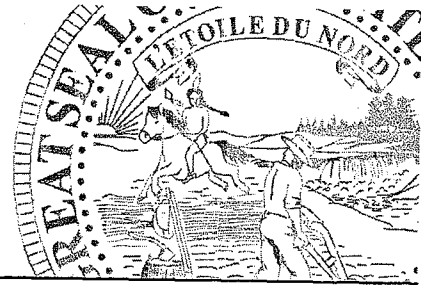
Issued: August 2004  
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Minnesota

# *Campaign Finance and Public Disclosure Board*



**DATE:** August 27, 2004

**TO:** The Honorable Timothy Pawlenty, Governor  
The Honorable James Metzen, President of the Senate  
The Honorable Dean Johnson, Senate Majority Leader  
The Honorable Steve Sviggum, Speaker of the House  
The Honorable Erik Paulson, House Majority Leader  
The Honorable Dick Day, Senate Minority Leader  
The Honorable Matt Entenza, House Minority Leader

**FROM:** Wilbur Flugel, Chair  
Campaign Finance and Public Disclosure Board

**SUBJECT:** Annual Report, in accordance with Minn. Stat. §10A.02, subd. 8(a), July 1, 2003, through June 30, 2004

Pursuant to Minnesota Statutes, chapter 10A.02, subd. 8 (a), the Campaign Finance and Public Disclosure Board submits its Annual Report.

The Board, consistent with their objectives and administrative procedures, provided guidance to the thousands of individuals and associations whose disclosure of certain political, economic interest, and lobbying activities is regulated by the Ethics in Government Act, Minnesota Statutes, chapter 10A.

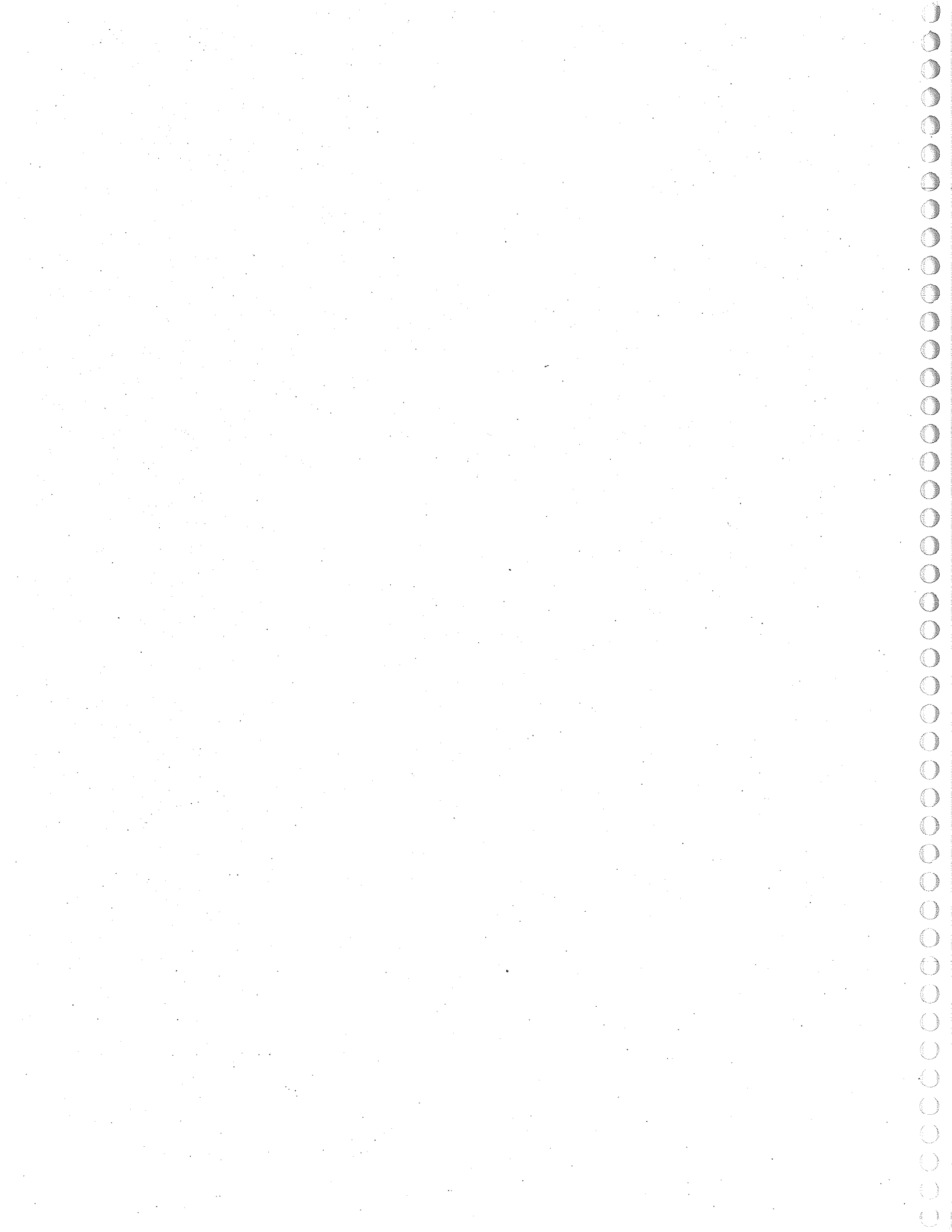
Included in this Annual Report is information about the campaign finance disclosure associated with the 2003 nonelection year, one special election held in fiscal year 2004, the collection of fees from lobbyists and their principals, and the electronic filing of lobbyist reports.

Throughout our activities we affirm the need for timely disclosure, public information, and enforcement, ever mindful of the depth and breadth of volunteer professional resources expended annually to comply with this important public disclosure law. We acknowledge the trust placed in the Board and its staff by the Minnesota Legislature.

The Board's activities during this fiscal year reflect our strong commitment to a reasoned and balanced approach to the public trust as expressed in the Board's mission statement.

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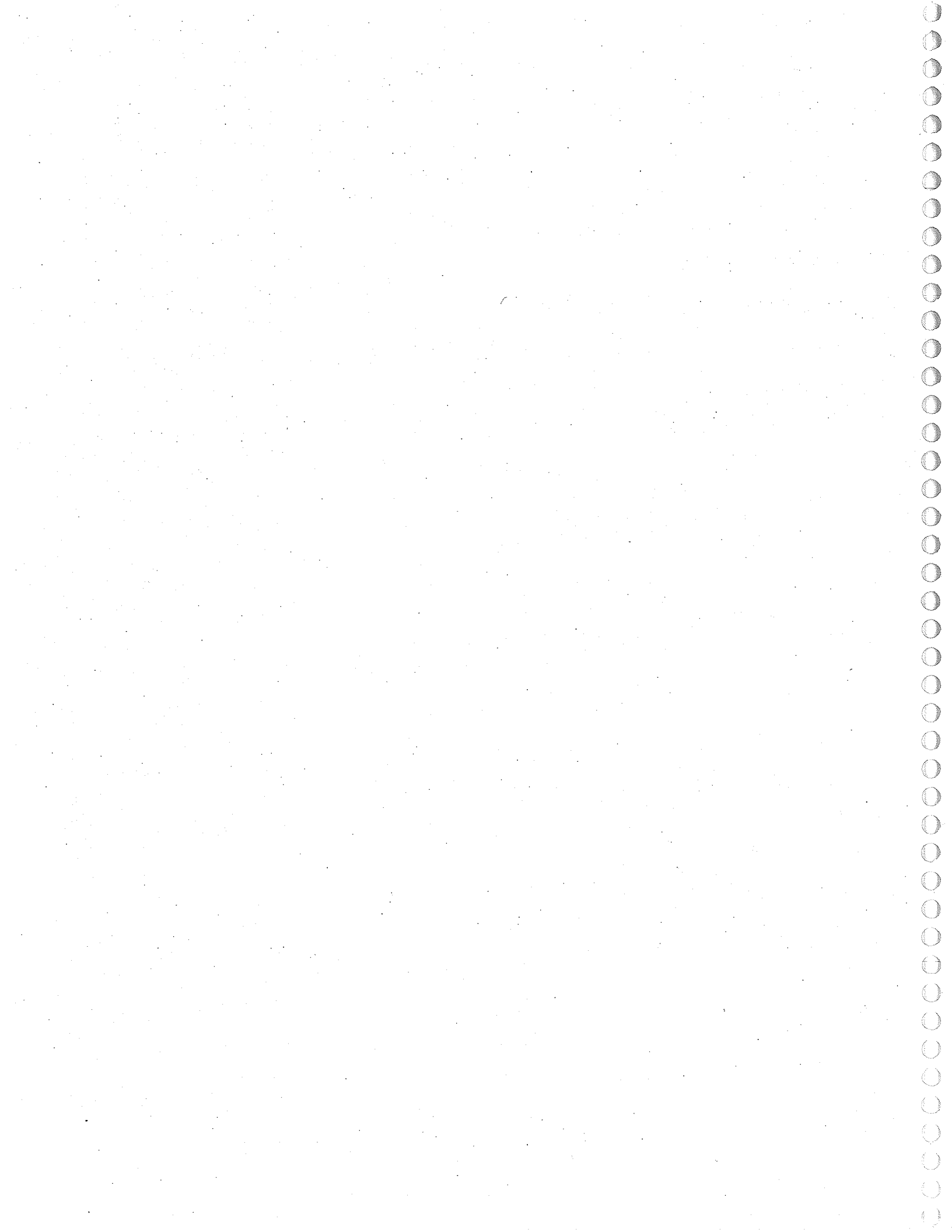
**AN EQUAL OPPORTUNITY EMPLOYER**



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## EXECUTIVE SUMMARY

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The Campaign Finance and Public Disclosure Board is charged with the administration of the Ethics in Government Act, Minnesota Statutes, chapter 10A. During fiscal year 2004 Board staff continued to keep abreast of technology and the public's continued desire for easy access to information filed with the Board. The Board's campaign finance software continues to be enhanced for ease of use. The searchable databases allow clients to access lists of candidates, lobbyists, and public officials and campaign finance files by information disclosed on reports and statements filed by the client. Electronic filing of *Lobbyist Disbursement Reports* was available for the first time with the report due January 15, 2004. Approximately 50% of the lobbyists required to file disbursement reports filed electronically. Staff continues to maintain an inter-active agency web site with information that is updated daily. For clients without access to a computer, public use computers are available in the Board office.

The Board met nine times to conduct business; issued nine advisory opinions; concluded 19 investigations; issued 19 findings of probable cause and referred one matter to the Dakota County Attorney in one complaint; investigated 29 potential violations of Chapter 10A which concluded in settlement of 28 conciliation agreements and three findings of probable cause; and produced 10 publications.

Board staff conducted training classes to aid volunteer treasurers and candidates in recordkeeping, reporting, and Finance 2002 campaign software; served on faculties of several Continuing Legal Education seminars; spoke to various groups and classes of local colleges and universities about the requirements of Chapter 10A; and contracted with Department of Administration, Management Analysis Division, to study client fees charged in other states, to assist staff in assessing time spent on administering programs for which fees were proposed, and to assist with client informational meetings all toward meeting the 2003 legislative mandate to produce a draft fee structure to recover Board costs from regulated entities.

Chapter 10A includes four major programs: campaign finance registration and disclosure, public subsidy administration, lobbyist registration and disclosure, and economic interest disclosure by public officials.

The report includes information on the filings of approximately:

- 1,420 registered principal candidate committees, political committees, political funds, and political party units;
- 1,210 registered lobbyists representing 1,220 associations who filed approximately 3,260 reports;
- 1,170 lobbyist principals; and
- 1,300 public officials.

Also included is information on public subsidy payments to the state committees of four political parties and two candidates during one special election held in 2003. Information on payments may be found on page 25.





# INTRODUCTION TO THE BOARD

---

## Authority

The Campaign Finance and Public Disclosure Board was established by the state legislature in 1974 through enactment of the Ethics in Government Act, Minnesota Statutes, chapter 10A. Throughout its 30 years the Board has enforced the provisions of Chapter 10A, promulgated and enforced Minnesota Rules 4501 through 4525, and issued 354 advisory opinions to guide clients in meeting the requirements of the Act.

## Function

Core functions of the Board include administration and management of the:

- registration and public disclosure by state legislative, constitutional and judicial office candidates, political party units, political committees, and political funds;
- distribution of payments from the state's public subsidy program that provides public funding to qualified state candidates and the state committee of a political party; and allows those candidates and all political party units to give political contribution refund receipts to certain campaign contributors;
- registration and public disclosure by lobbyists and their principals attempting to influence state legislative action, administrative action, and the official action of metropolitan governmental units; and
- disclosure of economic interest, conflicts of interest, and representation of a client for a fee under certain circumstances for certain state and metropolitan officials.

## Membership

The Board is a six-member bi-partisan citizen Board responsible for administration of the Ethics in Government Act. Members of the Board are appointed by the Governor to staggered four-year terms. Their appointments must be confirmed by a three-fifths vote of the members of each house of the legislature. The Board holds regular meetings, which are open to the public, annually elects its leadership, and reports on its activities to the governor, the legislature, and the public.

Two Board members were confirmed by the House of Representatives and the Senate in fiscal year 2004.

## **Mission Statement**

To promote public confidence in state government decision-making through development, administration, and enforcement of disclosure and public financing programs which will ensure public access to and understanding of information filed with the Board.

## **Goals and Objectives**

- Facilitate easier and more universal compliance with the Ethics In Government Act, Minnesota Statutes, chapter 10A.
- Provide fair and consistent enforcement of the Ethics In Government Act.
- Help citizens become better informed about public issues related to the Ethics in Government Act.

## **Website**

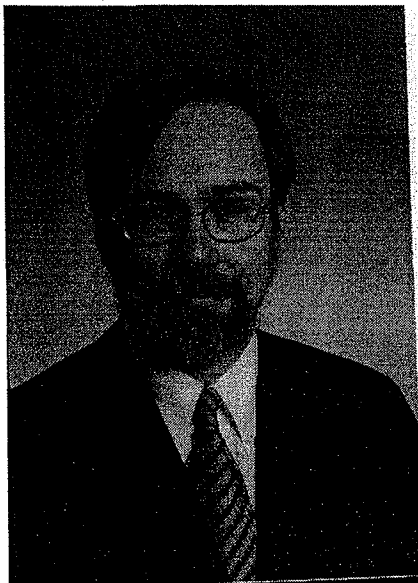
The Board maintains a site on the internet that provides many client services, including the following:

- Board meeting notices, minutes, and findings;
- Advisory Opinions;
- Annual Reports;
- Campaign Finance Summaries;
- Lobbyist Disbursement Summaries;
- Annual Report of Principal Disbursements;
- Lists of lobbyists and associations, candidate committees, political committees, political funds, and party units, all updated on a daily basis;
- Electronic filing for lobbyists;
- Public officials disclosure from filed *Economic Interest Statements*;
- Electronic versions of all Board publications and forms;
- Searchable databases of campaign finance information;
- Board and Staff contact information and automatic e-mail access;
- Biographies and pictures of current Board members; and
- Links to the Minnesota Statutes and Board Administrative Rules.

From September 23 through September 25, 2003, the Board's website was the featured site on the State of Minnesota's home page.

## BOARD MEMBERS

---



### **Wil Fluegel**

Wil Fluegel was appointed in June 1998, by Governor Arne Carlson and confirmed by the House and Senate in 1999, for a term ending in January 2001, and reappointed in January 2001, by Governor Jesse Ventura and confirmed by the House and Senate in 2001, for a term ending January 2005. He is a member of the Democratic Farmer Labor party with no restrictions on previous activities. Mr. Fluegel is a personal injury attorney in private practice who practices primarily on behalf of claimants in auto accidents, unsafe premises and defective product claims. He is a graduate of the University of Minnesota Law School and is certified as a civil trial specialist by both the National Board of Trial Advocacy and the Minnesota State Bar Association. He currently serves on the MTLA Board of Governors and the Minnesota Supreme Courts No-Fault Arbitration Standing Committee.



### **Terri Ashmore**

Terri Ashmore was appointed in January 2003, by Governor Tim Pawlenty and confirmed by the House and Senate in 2003, for a term ending in 2007. She is a member of the Republican Party of Minnesota and has not been a public official, held any political party office other than precinct delegate, or been elected to public office for which party designation is required by statute in the three years preceding the date of her appointment. Ms. Ashmore is the Managing Director of the Basilica of St. Mary. She serves as the Secretary of State's designee on the Minnesota History Center's Executive Committee and volunteers for the Jeremiah Program, a housing and education program for single mothers.



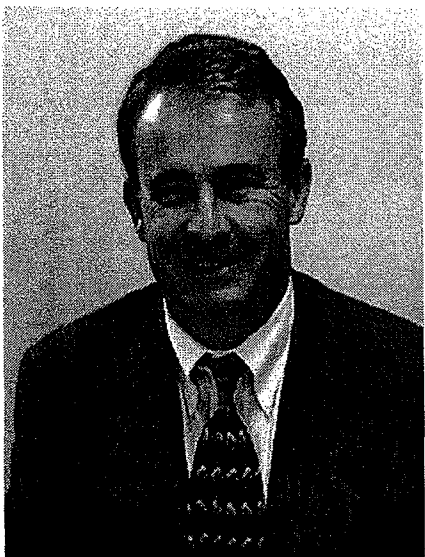
### **Felicia Boyd**

Felicia Boyd was appointed in April 2004, by Governor Tim Pawlenty and confirmed by the House and Senate in 2004, for a term ending in January 2008. She is a member of the Republican Party of Minnesota with no restrictions on previous activities. Ms. Boyd is a partner in the law firm of Faegre & Benson, where she practices in complex intellectual property litigation. She has successfully led plaintiff and defense litigation on infringement claims related to patents, copyrights, trademarks, and trade dress, including multiple jury trials. She is a graduate of the University of Minnesota Law School and St. Olaf College and is a mother of five.



### **Hilda Bettermann**

Hilda Bettermann was appointed in April 2004, by Governor Tim Pawlenty and confirmed by the House and Senate in 2004, for a term ending in January 2008. She is a former member of the legislature from the Republican Party where she served in the Minnesota House of Representatives for eight years. Ms. Bettermann is an instructor at the Alexandria Technical College and is currently a member of the Minnesota Board of Medical Practice, the Douglas County Hospital Board, and the Central Lakes Area Sanitary District Advisory Council. She is also a former member of the Rural Health Advisory Council, the Workers Compensation Council and the MNSCU Trustee Advisory Council.



#### **Bob Milbert**

Bob Milbert was appointed in January 2003, by Governor Tim Pawlenty and confirmed by the House and Senate in 2003, for a term ending in January 2007. He is a former member of the legislature from the Democratic Farmer Labor party where he served as a member of the Minnesota House of Representatives for 16 years. He is a graduate of Dartmouth College. Mr. Milbert is the CEO of Milbert Company, a Culligan Water dealership. He was a member of the South St. Paul City Council for 12 years and currently serves as a member of the River Heights Chamber of Commerce, is a Board member on the USA Hockey Foundation and Minnesota Amateur Sports Commission, and volunteers for the United Way.



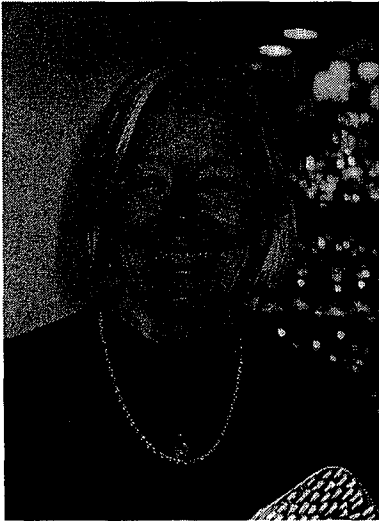
#### **Clyde Miller**

Clyde Miller was appointed in February 2002, by Governor Jesse Ventura and confirmed by the House and Senate in 2002, for a term ending in January 2006. He is a member of the Independence Party of Minnesota and has not been a public official, held any political party office other than precinct delegate, or been elected to public office for which party designation is required by statute in the three years preceding the date of his appointment. Mr. Miller is a partner and shareholder with Jennings, DeWan, Miller and Anderson, L.L.C., a law firm that concentrates on civil matters, including many involving municipal and general governmental issues, employment law, workers' compensation, contracts, product liability, personal injury, and other civil law matters. He is a graduate of the William Mitchell College of Law. He was named a qualified neutral by the Minnesota Supreme Court in 1997 and is a volunteer supervising attorney for the Lawyers Board of Professional Responsibility. He served as a member of the Governor's and Citizen's League Task Force on Property Tax Reform.



### **Doug Kelley**

Douglas Kelley was appointed in May 2000, by Governor Jesse Ventura and confirmed by the House and Senate in 2001, for a term ending in January 2004. He is a member of the Republican Party of Minnesota with no restrictions on previous activities. Mr. Kelley is an attorney. He owns and manages a law firm that concentrates on white-collar crime, provides services in compliance programs, internal investigations, Indian gaming, employment law, and complex civil litigation. He is a graduate of the University of Minnesota Law School. He is currently a member of the University of Minnesota Economic Roundtable and the Minnesota Audubon Council. He serves on the Board of Trustees of Outward Bound and the Board of Directors of the Minnesota Orchestra Association. He is Co-chair of the Minnesota League of Conservation Voters.



### **Sidney Pauly**

Sidney Pauly was appointed in March 1996, by Governor Arne Carlson and confirmed by the House and Senate in 1997, for a term ending in January 2000, and reappointed by Governor Jesse Ventura in April 2000, and confirmed by the House and Senate in 2001, for a term ending in January 2004. She is a former member of the legislature from the Republican Party of Minnesota. She is a graduate of the University of Minnesota. Ms. Pauly served eight years as a member of the Eden Prairie City Council and 12 years in the Minnesota House of Representatives. She is a member of the board of the friends of the Lower Minnesota River Valley and is active in several local organizations.

## **SUMMARY OF BOARD ACTIVITIES**

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### **Meetings**

The Campaign Finance and Public Disclosure Board held nine regular session meetings, nine executive session meetings, and one nominating sub-committee meeting.

### **Advisory Opinion Procedure**

The Board is authorized to issue advisory opinions on the requirements of the Ethics in Government Act (Minn. Stat. chapter 10A) and the Hennepin County Disclosure Law (Minn. Stat. §§ 383B.041 - 383B.058). Individuals or associations may ask for advisory opinions to guide their compliance with these laws.

A request for an advisory opinion and the opinion itself are private data. The Board provides a Consent to Release Information form to individuals requesting opinions as part of the procedures under this law. If the requester does not consent to the publication of the requester's identity, the Board generally publishes a public version of the opinion, which does not identify the requester.

A written advisory opinion issued by the Board is binding on the Board in any subsequent Board proceeding concerning the person making or covered by the request and is a defense in a judicial proceeding that involves the subject matter of the opinion and is brought against the person making or covered by the request unless: 1) the Board has amended or revoked the opinion before the initiation of the Board or judicial proceeding, has notified the person making or covered by the request of its action, and has allowed at least 30 days for the person to do anything that might be necessary to comply with the amended or revoked opinion; 2) the request has omitted or misstated material facts; or 3) the person making or covered by the request has not acted in good faith in reliance on the opinion.

Advisory opinions issued in fiscal year 2004 are listed under each program.

### **Publications**

The Campaign Finance and Public Disclosure Board issued ten publications:

- Annual Report for Fiscal Year 2003;
- Handbook for Candidate Committees;
- Handbook for Judicial Candidate Committees;

- Handbook for Political Committees and Political Funds;
- Handbook for Lobbyists and Lobbyist Principals;
- List of Registered Principal Campaign Committees, Political Committees, Political Funds, and Lobbyists;
- Compilation of Advisory Opinions, Nos. 342 - 348;
- Lobbying Disbursement Summary for Fiscal Year 2003;
- Lobbyist Principal Expenditures 2003; and
- 2003 Campaign Finance Summary.

## Training, Education and Outreach

### Staff outreach:

- Served as a guest on a local access cable program hosted by the mayor of Maplewood to discuss the Board and its responsibilities.
- Met with a group of citizens in Southwest Minneapolis called "BOB" (getting to the Bottom Of the Ballot) to discuss the Board and its role in campaign finance.
- Served on the Awards Committee and the Site Selection Committee for the Council on Governmental Ethics Laws.
- Presented information to the Minnesota Government Relations Council on the fee structure process.
- Served on a panel to discuss campaign finance laws with the Minnesota Government Relations Council.
- Spoke at a conference of the International Association of Business Communicators – Minnesota Chapter, about lobbyist registration and reporting as well as campaign finance activities and the gift ban.
- Presented information to:
  - the political science club at the University of St. Thomas to discuss the Board and its functions and campaign finance issues;
  - a University of Minnesota Graduate School of Public Health class, *Legislative Advocacy Skills for Public Health* about lobbying, the gift ban, and campaign finance; and
  - a Minnesota Law School class, *The Legislative Process* to discuss lobbyist registration and reporting and gift ban provisions.



- Presented information at Continuing Legal Education seminars for:  
public attorneys in the legislative and executive branch;  
Minnesota's Legislative Process discussing lobbying registration and reporting requirements and gift ban provisions of Chapter 10A;  
association managers presenting information about political committees and funds, lobbying, and the gift ban;  
Faegre and Benson presented information about lobbying, campaign finance, and the gift ban; and  
Hamline Law School for individuals interested in campaign finance and lobbying.

#### Board member activities

- Presented information to the Minnesota Government Relations Council on the fee structure process.
- Testified at Senate and House hearings about the proposed fee structure.

#### Disclosure training offered by Board staff:

- One session for lobbyists providing information about 2003 law changes, the Board's report to the legislature about a proposed fee schedule, and electronic filing of *Lobbyist Disbursement Reports*.
- Five sessions on the use of the Board's Campaign Finance Software.
- One session on report training to assist treasurers in filing the *Report of Receipts and Expenditures*.
- Six sessions of compliance classes to assist treasurers in understanding the requirements of Minnesota Statutes, chapter 10A.

Training taken by staff:

- Participated in six classes/seminars for a total of 72 hours of training to attain and maintain a quality of job performance that meets the needs of the state, the Campaign Finance and Public Disclosure Board, and the individual employee.
- Attended the annual Council on Governmental Ethics Laws (COGEL) conference.
- Attended and presented information on the proposed fee structure at the COGEL Heartland regional conference for staff of COGEL member agencies.

## CAMPAIGN FINANCE PROGRAM

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### **Advisory Opinions Issued**

- Reporting the Use of a Personal Airplane for Campaign Purposes

The use of a personal airplane for campaign purposes is either an in-kind contribution and in-kind expenditure to benefit the campaign or a campaign expenditure that must be paid for with committee funds. No. 351

- Noncampaign Disbursements Cost of Providing Food

A principal campaign committee may not classify the cost of providing food for staff of an elected official as a noncampaign disbursement. No. 354

- Fundraising and Expenditures by a Political Party Unit

A political party unit may raise and spend funds for women candidates as a group providing the fundraising does not refer to a specific candidate and the contributions and expenditures are properly reported to the Board. No. 356

- Compensation for Staff Services, In-Kind Donation to Pay for Living Expenses of Staff

Political party units and candidates may jointly hire and compensate staff to work on campaigns and develop assets. The staff's time must be closely tracked and projects between the party units and candidates segregated in order to prevent unauthorized in-kind donations. An association that provides compensation to campaign staff is making an in-kind donation to the principal campaign committee that benefits from the staff's work. No. 357

### ***Filed Complaints***

The Board completed four investigations and issued four findings.

- The Board found probable cause to believe that the committee to Elect (Keith) Ellison inadvertently failed to report campaign expenditures on its *Report of Receipts and Expenditures* for calendar year 2002; the Board found that there was no probable cause to believe that the reporting violation continued to exist.

- The Board found probable cause to believe that the (Dave) Engstrom for Senate committee used office resources of Minnesota Housing Resources, Inc. for campaign related communications. The Board ordered Mr. Engstrom to reimburse Minnesota Housing Resources, Inc. for the resources and to amend the committees *Report of Receipts and Expenditures* to disclose the use as unpaid bills for in-kind campaign expenditures.
- The Board found no probable cause to believe that the:
  - 1) DFL House Caucus Federal PAC, the DFL House Caucus, or the Minnesota DFL State Central Committee attempted to circumvent any of the provisions in Minn. Stat. Chapter 10A by redirecting a contribution through another individual or association;
  - 2) DFL House Caucus Federal PAC was required to register with the Board;
  - 3) Minnesota DFL State Central Committee Federal Account violated Minnesota Statutes when it accepted transfers from the Federal PAC; and
  - 4) DFL House Caucus and the DFL House Caucus Federal PAC failed to provide the necessary disclosure for the source of the funds used to support Chapter 10A candidates.
- The Board found probable cause to believe that the David Dill for Minnesota District 6A committee:
  - 1) underreported the fair market value of the use of Mr. Dill's personal aircraft and did not properly disclose the expense on the 2002 pre-primary *Report of Receipts and Expenditures*;
  - 2) improperly and inadvertently classified a campaign expenditure as a noncampaign disbursement;
  - 3) improperly allocated a pre-primary expenditure as a post-primary expense;
  - 4) exceeded the expenditure limits for first time candidate and for a first time candidate in a contested primary; and
  - 5) made an inappropriate expenditure when campaign funds were used to purchase the candidate's food while campaigning.

The finding also found no probable cause to believe that:

- 1) an inappropriate in-kind contribution was made to the committee;
- 2) the committee benefited from an employee discount for aviation fuel;
- 3) the committee paid two individuals for web site services; and
- 4) the committee knowingly filed a false report.

## **Filing Deadlines**

Approximately 720 *Reports of Receipts and Expenditures* were filed by principal campaign committees. Approximately 700 reports were filed by political committees, political funds and political party units.

Fees for the late filing of the *Report of Receipts and Expenditures*:

- 31 principal campaign committees paid late fees totaling \$2,772;
- 9 political committees and political funds paid late fees totaling \$1,695;
- 2 political party units paid late fees totaling \$275;
- 1 political party unit was granted a waiver totaling \$100; and
- 1 principal campaign committee had fees reduced by a total of \$200.

## **Staff review of campaign finance reports**

Each filed report was reviewed by Board staff for compliance with the disclosure law requirements including accurate accounting and reporting for receipts and expenditures, proper use of required disclosure schedules, and adherence to applicable contribution and expenditure limits.

| <b>Nonelection year</b> | <b>Reports filed</b> | <b>Amendments<br/>filed</b> |
|-------------------------|----------------------|-----------------------------|
| 2003                    | 1,420                | 101                         |
| 2001                    | 1,480                | 89                          |
| 1999                    | 1,400                | 344*                        |
| 1997                    | 1,195                | 96                          |

\*This increase is due to the Board's continued effort to seek full compliance with campaign finance disclosure laws including full address and employment information from itemized contributors, specific purposes of expenditures, and dates on all transactions. Better methods of reconciling reports between committees and funds and information received from the Department of Revenue have assisted staff in meeting the goal of increased compliance.

## **Internal investigations**

The Board reviewed 29 potential violations of Chapter 10A, involving 28 committees or funds and made three findings concerning probable cause.

- 25 committees were fined a total of \$14,197; and
- 22 of the committees entered into conciliation agreements.

## **Contribution limits**

- Single source contributions from individuals, political committees, and political funds.

All candidates for state executive and legislative offices must abide by statutory contribution limits.

The Board reviewed 12 potential violations of this law based on reports filed by principal campaign committees for calendar years 2002 and 2003. All 12 cases were concluded by conciliation agreement. The Board imposed civil fines totaling \$1,700 on 12 committees. The 12 principal campaign committees also were required to return a total of \$1,250 to 15 contributors.

- Aggregate contributions from political party units

All candidates for state executive and legislative offices must abide by statutory aggregate contribution limits from political party units and terminating principal campaign committees.

The Board reviewed three potential violations of this law based on reports filed by principal campaign committees for calendar years 2002 and 2003. The three cases were concluded by conciliation agreement. The Board imposed civil fines totaling \$3,318 on three committees. The three principal campaign committees also were required to return a total of \$3,118 to political party units.

- Contributions from special sources (lobbyists, political committees, political funds, and contributions from individuals of more than \$100 and more than one-half the amount of the contribution limit).

All candidates for state executive and legislative offices must limit their contributions from special sources.

The Board reviewed three potential violations of this law based on reports filed by principal campaign committees for calendar years 2002 and 2003. The three cases were concluded by conciliation agreement. The Board imposed civil fines totaling \$528 on two committees. Three principal campaign committees were required to return a total of \$533 to contributors.

- Contributions from the candidate to the candidates principal campaign committee

All candidates who sign a Public Subsidy Agreement must limit their contribution to their own committees

The Board reviewed one potential violation of this law based on reports filed by a principal campaign committee for calendar year 2002. The case was concluded by conciliation agreement. The Board imposed a civil fine totaling \$461 on the committee. The committee was also required to return a total of \$461 to the candidate.

- Contributions from political committees and political funds

All political committees and political funds must abide by statutory contribution limits when donating to a state executive and legislative office candidate committee.

The Board reviewed four potential violations of this law based on reports filed by political committees and political funds for nonelection year 2003. The four cases were concluded by conciliation agreement. The Board imposed civil fines totaling \$950\* on the four committees. The four political committees and political funds also were required to provide copies of the candidate committee checks returning the contributions to the committees and funds.

\* \$550 was paid in fiscal year 2004, \$400 was paid in fiscal year 2005

### **Acceptance of contribution from the committee of a political subdivision**

All candidates for state executive and legislative offices are prohibited from accepting contributions from candidates for federal or local office.

The Board reviewed one potential violation of this law based on a report filed by a principal campaign committee for nonelection year 2003. The case was concluded by conciliation agreement. The Board imposed a civil fine of \$50 and required the committee to return \$50 to the contributor.

### **Contribution from unregistered association**

- Acceptance of a contribution from an unregistered association.

All candidates for state executive and legislative offices, political committees, political funds, and political party units are prohibited from accepting contributions of more than \$100 from associations that are not registered with the Board.

The Board reviewed one potential violation of this law based on a report filed by a political party unit for nonelection year 2003. The case was concluded by conciliation agreement. The Board imposed a civil fine of \$250 and required the committee to return \$2,500 to the unregistered association.

- Contribution to a committee from an unregistered association.

Associations not registered with the Board are prohibited from giving contributions of more than \$100 to candidates for state executive and legislative offices, political committees, political funds, and political party units registered with the Board.

The Board reviewed one potential violation of the law based on a report filed by the recipient committee for calendar year 2002. The Board issued findings of probable cause and imposed a civil fine of \$250 on the donating association.

## **Expenditure limits**

All candidates for state executive and legislative offices who wish to receive public subsidy must agree to spending limits in both election and nonelection years.

The Board reviewed one potential violation of this law based on a complaint filed with the Board. The Board issued findings of probable cause to believe the committee exceeded the pre-primary and year-end expenditure limits. The case was concluded by conciliation agreement. The Board imposed a civil fine totaling \$6,440.

## **Independent expenditures**

An individual, principal campaign committee, political committee, political fund, or party unit that independently solicits or accepts contributions or makes expenditures on behalf of a candidate must publicly disclose that the expenditure is an independent expenditure.

The Board reviewed one potential violation of this law based on a report filed by a political fund for election year 2002. The Board issued findings of probable cause to believe that the fund failed to disclose the independent expenditure. No civil fine was imposed.



**Failure to  
appropriately deposit**

A principal campaign committee, political committee, political fund, or political party unit may not commingle its funds with personal funds of officers, members, or associates of the committee.

The Board reviewed one potential violation of this law based on a report filed by a political fund for election year 2002. The Board issued findings of probable cause to believe that committee funds were commingled with association funds and imposed a civil fine of \$250.

**Civil penalty for  
failure to file a report**

A principal campaign committee, political committee, political fund, or political party unit is subject to a civil fine of up to \$1,000 for failure to file reports and statements within fourteen days after two certified notices have been sent.

Civil fines for failure to file after two certified notices:

- 3 principal campaign committees paid civil fines totaling \$656;
- 1 principal campaign committee was granted a waiver totaling \$1,000;
- 1 political party unit was granted a waiver totaling \$3,000;
- 1 principal campaign committee had civil fines reduced by \$500; and
- 1 political party unit had civil fines reduced by \$600.



## CAMPAIGN FINANCE SOFTWARE

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### **Software Description**

The Board provides free computer software for recording and reporting receipts and expenditures to assist principal campaign committees, political committees, political funds, and political party units with the compliance and disclosure requirements of Chapter 10A.

The software provides compliance warnings as records are entered, generates electronic reports for filing that reduces the data entry demands on Board staff, and provides contact management tools for use by committees and funds in administering their transactions. Deployment of an enhanced version of Finance 2002 will be offered in fiscal year 2005.

Approximately 130 candidates and 70 political committees, political funds, and political party units used Finance 2002 software to electronically file their *Report of Receipts and Expenditures* for calendar year 2003.



## CLIENT FEE STRUCTURE

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Legislation passed in 2003 directed the Board to study, in consultation with lobbyists, political committees, political funds, principal campaign committees, and party units, how fees could be imposed on those clients to recover the costs incurred by the Board in regulating them. The study, including a recommended fee schedule, was to be completed by January 15, 2004. The fees were to be no more than necessary to cover the cost of administering each program. The amount of the recommended fee would be adjusted each biennium as part of the Board budget request.

A consultant from the Department of Administration, Management Analysis Division, working closely with the Board and staff, reviewed fee-charging practices of 50 states' ethics agencies and became aware of legal challenges to such fees. During the review it was discovered that, in a small number of states, fees charged to lobbyists had been successfully challenged on a First Amendment basis. The consultant recommended steps to overcome such challenges, which were adopted for the project.

In developing the fee schedules, only the program costs attributable to each of the named entity types were included in the fee study and final fee recommendation. Staff time, both direct and indirect, spent on each program was tracked in order to assess staff hours and salaries that are attributable to each program.

On June 27, 2003, letters were sent to over 4,550 Board clients asking for comments about the proposed fee structure. About 100 responses were received.

Public meetings were held in Minneapolis on September 9, 2003, and in St. Paul on September 10, 2003. Individuals were invited to speak at the meetings or write or email the Board staff with their thoughts and concerns if they were unable to attend a meeting.

Several fee options for each named entity type were developed and the Board selected an option for each entity type to forward to the legislature. The report was published on the Board website for stakeholder review and comments before being finalized. The final report was delivered to the legislature in December 2003, one month prior to the legislative deadline. The Board Chair, Executive Director, and the consultant testified at legislative hearings concerning the study process and results.

In consideration of the strong sentiment by the affected parties opposing fees and the Board's stated preference to reject the fees, the legislature did not adopt any new fees for Board clients.



## **PUBLIC SUBSIDY PROGRAM**

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### **2004 Legislative Action**

The Office of Administrative Hearings (OAH) has been charged with resolving complaints about legislative, constitutional officer, and judicial candidate violations under Minn. Stat. chapter 211B. To cover their costs in implementing this law \$65,000 from the State Elections Campaign Fund will be transferred to the OAH each fiscal year. Unused funds will be returned to the State Elections Campaign Fund.

### **Advisory Opinion**

- Use of party account checkoff funds by the state committee of a political party

The state committee of a political party may use funds from the party check off account to promote precinct caucuses provided the promotion is a multi-candidate political party expenditure. No. 352

### **2004 Special Election Payments**

Public subsidy payments in special elections are made with appropriations from the state general fund.

Public subsidy funds were distributed in one special election held in fiscal year 2004. The amount of public subsidy available in a special election is the same amount for that office and party in the preceding general election:

House District 18A (December 30, 2003) – Two candidates; two candidates received public subsidy totaling \$7,417.

### **Political Party Payments**

Monthly payments are made to the state committees of political parties that qualify to receive 10% of the tax filer's checkoffs to the party account of the State Elections Campaign Fund.

Based on monthly certification from the Department of Revenue for fiscal year 2004 payments were as follows:

|   |                  |
|---|------------------|
| Democratic Farmer Labor                   | \$51,227         |
| Green Party of Minnesota                  | 6,960            |
| Independence Party of Minnesota           | 6,329            |
| Republican Party of Minnesota             | <u>39,061</u>    |
| Total payments to State Party Committees: | <u>\$103,577</u> |





# LOBBYIST PROGRAM

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## Advisory Opinions Issued

- Communications for the purpose of obtaining a contract with the State of Minnesota

An individual who communicates with state employees, public officials, and elected officials, to sell goods or services is not required to register as a lobbyist. No. 349

- Lobbying on a contingency fee basis

Lobbyists may not provide services on a contingency fee basis to a client for which they are registered to lobby. No. 350

- Determination and Reporting of Lobbying Disbursements

Lobbyists and lobbyist principals must reasonably allocate and report expenditures for items and services that have both a lobbying and a nonlobbying purpose. No. 358

## Filed Complaints

The Board completed six investigations and issued six findings.

- The Board found probable cause to believe that H. Theodore Grindal and the Mille Lacs Band of Ojibwe Indians (Band) inadvertently failed to report media expenditures made by the Band on Mr. Grindal's *Lobbyist Disbursement Reports* for the periods covering January 1 through March 31, 2003, and April 1 through June 30, 2003. The Board found no probable cause to believe the reporting violations continue to exist or that the required information was knowingly omitted on Mr. Grindal's *Lobbyist Disbursement Reports*.
- The Board found probable cause to believe that John Knapp and the Prairie Island Dakota Community inadvertently failed to disclose lobbying disbursements on Mr. Knapp's *Lobbyist Disbursement Reports* for the periods covering January 1 through March 31, 2002, January 1 through March 31, 2003, and April 1 through June 30, 2003. The Board found no probable cause to believe the reporting violations continue to exist or that the required information was knowingly omitted on Mr. Knapp's *Lobbyist Disbursement Reports*.

- The Board found probable cause to believe that the Minnesota Indian Gaming Association failed to timely provide Andrew Kozak, the association's designated lobbyist, with information required to be reported on Mr. Kozak's *Lobbyist Disbursement Report* for the period covering April 1 through June 30, 2003. The Board found no probable cause to believe that Andrew Kozak knowingly omitted the information regarding this lobbying disbursement from his report.
- The Board found no probable cause to believe that Citizens Against Gambling Expansion met the definition of a lobbyist principal as advocating for a position for a party platform is not a form of lobbying as defined by Minnesota Rules 4511.0100, subp. 3.
- The Board found no probable cause to believe that:
  - 1) Himle Horner employees met the definition of lobbyist during 2003;
  - 2) Northstar Corridor Development Authority failed to provide Ross Kramer with complete information about lobbying disbursements made by the association; and
  - 3) Mr. Kramer failed to report the association's direct lobbying expenses to the Board on his *Lobbyist Disbursement Reports*.
- The Board found no probable cause to believe that Tim Grant met the definition of lobbyist as provided for in Minnesota Statutes, Chapter 10A, and no probable cause to believe that Mr. Grant was required to register with or report to the Board.

## Electronic filing

The legislature directed the Board to make electronic filing of *Lobbyist Disbursement Reports* available by January 2005. Staff completed the work necessary to enable lobbyists to file the January 15, 2004, report electronically. Passwords were assigned and information about electronic filing was sent to all reporting lobbyists. Approximately 50% of the lobbyists required to file disbursement reports on January 15 and June 15, 2004, filed those reports electronically.

## Filing Deadlines

Approximately 1,210 registered individuals representing 1,220 associations filed approximately 3,260 *Lobbyist Disbursement Reports*.

Of the 3,260 reports filed in fiscal year 2004, approximately 7% were filed late. About 6% of the reports were filed late in fiscal year 2003.

**Fees for the late filing of the *Lobbyist Disbursement Report*:**

- 7 lobbyists paid late fees totaling \$495;
- 2 lobbyists were granted waivers totaling \$400; and
- 1 lobbyist had late filing fees reduced by \$50.

**Civil penalty for failure to file a report**

A lobbyist is subject to a civil fine of up to \$1,000 for failure to file a *Lobbyist Disbursement Report* within fourteen days after two certified notices have been sent.

**Civil fines for failure to file after two certified notices:**

- 1 lobbyist paid a civil fine totaling \$200; and
- 5 lobbyists were granted waivers totaling \$5,500.

**Staff review of lobbyist disclosure reports**

Each report was reviewed by Board staff for compliance with the lobbyist disclosure law.

| Reporting year | Reports filed * | Amendments filed |
|----------------|-----------------|------------------|
| 2003           | 3,260           | 6                |
| 2002           | 5,400           | 5                |
| 2001           | 9,240           | 23               |
| 2000           | 9,550           | 30               |

\* Rules promulgated in 2002 allow one lobbyist to file a *Lobbyist Disbursement Report* disclosing disbursements made by some or all lobbyists representing the same association.

**Annual Report of Lobbyist Principal**

An individual or association that spends more than \$500 in a calendar year to engage, compensate, or authorize expenditure of money by a lobbyist; or spends more than \$50,000 in a calendar year on efforts to influence legislative action, administrative action, or the official action of metropolitan governmental units is required to file an *Annual Report of Lobbyist Principal*.

**Filing Deadlines**

The *Annual Report of Lobbyist Principal* covering the period January 1 through December 31, 2003, was due on March 15, 2004, from 1,174 lobbyist principals. Approximately 20% of the 2004 reports were filed late. About 11% of the 2003 reports were filed late.

**Fees for the late filing of the *Annual Report of Lobbyist Principal*:**

- 16 lobbyist principals paid late fees totaling \$600; and
- 2 lobbyist principals had fees reduced by a total of \$1,100.

**Civil penalty for failure to file a report**

A lobbyist principal is subject to a civil fine of up to \$1,000 for failure to file a *Annual Report of Lobbyist Principal* within fourteen days after two certified notices have been sent.

- 2 lobbyist principals paid civil fines totaling \$200; and
- 2 lobbyists principals were granted waivers totaling \$1,100.

**Lobbyist and Lobbyist Principal fees**

Legislation passed in 2003 required each:

- lobbyist who was registered on January 15, 2003, to pay a \$50 fee by August 1, 2003, for each client the lobbyist was registered to represent;
- lobbyist principal who was required to file a report on March 15, 2003, to pay a \$50 fee by August 1, 2003;
- registered lobbyist to pay a \$50 fee on January 15, 2004, for each client the lobbyist was registered to represent;
- lobbyist principal who was required to file a report on March 15, 2004, to pay a \$50 fee on March 15, 2004.

**Fees paid**

Fees due August 1, 2003:

- 2,620 lobbyists paid fees totaling \$139,050
- 1,180 principals paid fees totaling \$58,600

Fees due January 15, 2004:

- 1,127 lobbyists paid fees totaling \$117,300

Fees due March 15, 2004:

- 1,143 principals paid fees totaling \$57,100

**Late fees**

Fees for the late payment of the lobbyist fee due August 1, 2003, and January 15, 2004:

- 20 lobbyists paid late fees totaling \$1,130;

Fees for the late filing of the lobbyist principal fees due August 1, 2003, and March 15, 2004:

- 33 lobbyist principals paid late fees totaling \$1,240.

The fee provisions expired June 30, 2004.



## **GIFT BAN**

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### **Filed Complaints**

The Board completed two investigations and issued two findings.

- The Board found no probable cause to believe a violation of Minn. Statutes, chapter 10A occurred when the Minnesota Vikings Football Club invited state legislators to a football club event for which the legislators made contemporaneous payment.
- The Board found no probable cause to believe that Rose-Wild or the Minnesota Hockey Ventures Group met the definition of principal at the time an offer to facilitate the purchase of tickets to a hockey game was made to local officials in a metropolitan governmental unit.

## BOARD OPERATING BUDGET

The Campaign Finance and Public Disclosure Board is funded by a direct appropriation from the Minnesota Legislature. The fiscal year budget begins July 1 and ends June 30.

|                                     |                      |
|-------------------------------------|----------------------|
| Full time staff (salary and fringe) | \$507,948            |
| Part time staff (salary and fringe) | 58                   |
| Workers compensation                | 322                  |
| Achievement/Incentive               | 4,100                |
| Per diem                            | 3,135                |
| Office rent                         | 30,017               |
| Postage                             | 18,144               |
| Misc. rents                         | 239                  |
| Telephone                           | 3,581                |
| Photocopy machine leases            | 16,470               |
| In-State travel – staff             | 303                  |
| Out-State travel                    | 838                  |
| Printing                            | 5,214                |
| Board meeting expenses              | 1,555                |
| Staff / Board development           | 3,303                |
| Subscriptions, Memberships          | 515                  |
| Supplies                            | 6,083                |
| Special expenses                    | 539                  |
| Equipment                           | 2,841                |
| Misc. purchased services            | 2,279                |
| Prof/Tech services                  | 35,270               |
| Legal costs                         | 38,818               |
| Technology infrastructure           | 3,932                |
| Balance forward to fiscal year 2005 | <u>64,757</u>        |
| <br>TOTAL                           | <br><u>\$753,261</u> |



## DEPOSITS

Unless otherwise noted, all receipts collected by the Campaign Finance and Public Disclosure Board are deposited in the general fund of the state.

### Late Filing Fees

|                                   |                |                        |
|-----------------------------------|----------------|------------------------|
| Principal Campaign Committees     | 2,772          | 31 committees          |
| Political Committees and Funds    | 1,695          | 9 committees and funds |
| Political Party Units             | 275            | 2 party units          |
| Economic Interest Statements      | 530            | 7 public officials     |
| Lobbyist Disbursement Reports     | 495            | 7 lobbyists            |
| Lobbyist Principal Annual Reports | 600            | 16 principals          |
| Lobbyist Fees                     | 1,130          | 20 lobbyists           |
| Lobbyist Principal Fees           | <u>1,240</u>   | <u>33</u> principals   |
| <b>TOTAL LATE FILING FEES</b>     | <b>\$8,737</b> | <b>125</b>             |

### Civil Fines

|                                |                 |  |
|--------------------------------|-----------------|--|
| Contribution limits violations | \$3,511         | 19 candidate committees                    |
| Special source aggregate limit | 1,431           | 4 candidate committees                     |
| Exceeding spending limit       | 6,440           | 1 candidate committee                      |
| Excess party contributions     | 3,318           | 3 candidate committees                     |
| Failure to file report         | 1,056           | 6 committees and funds                     |
| Failure to pay fee             | <u>400</u>      | <u>2</u> lobbyists and lobbyist principals |
| <b>TOTAL CIVIL FINES</b>       | <b>\$16,155</b> | <b>36</b>                                  |

|                              |                |  |
|------------------------------|----------------|--|
| Return of public subsidy     | \$1,539        | 1 candidate committee  |
| Contributions on termination | \$7,423        | 2 candidate committees   |
| Anonymous contributions      | \$4,046        | 5 committees   |
| Contribution to S.E.C.F      | 1,200          | 1 committee  |
| Returned contributions       | <u>3,675</u>   | <u>3</u> committees  |
| <b>SUBTOTAL</b>              | <b>\$8,920</b> | <b>9 (deposited in the general account of the State Elections Campaign Fund)</b> |

### Annual Fees

|                                |                  |                         |
|--------------------------------|------------------|-------------------------|
| 8/1/03 Lobbyist Fee            | \$139,050        | 2,620 lobbyists         |
| 8/1/03 Lobbyist Principal Fee  | 58,600           | 1,180 principals        |
| 1/15/04 Lobbyist Fee           | 117,300          | 1,127 lobbyists         |
| 3/15/04 Lobbyist Principal Fee | <u>57,100</u>    | <u>1,143</u> principals |
| <b>SUBTOTAL</b>                | <b>\$372,050</b> | <b>6,070</b>            |

### Photocopy receipts

|                            |                |  |
|----------------------------|----------------|--|
| Copies                     | \$3,470        | 322 individuals paid (retained by Board to off-set photo copier costs) |
| State sales tax            | 242            |  |
| St. Paul sales tax         | <u>19</u>      |  |
| <b>TOTAL COPY RECEIPTS</b> | <b>\$3,731</b> |  |

### Miscellaneous income

|                                |       |  |
|--------------------------------|-------|--|
| Return of Service Process Fees | \$677 | 7 (retained by Board for legal fees paid to serve clients) |
|--------------------------------|-------|--|

|                       |                         |
|-----------------------|-------------------------|
| <b>TOTAL RECEIPTS</b> | <b><u>\$419,234</u></b> |
|-----------------------|-------------------------|

