

**STATE OF MINNESOTA
ETHICAL PRACTICES BOARD**

**FINDINGS IN THE MATTER OF A COMPLAINT AGAINST
THE MINNESOTA COALITION FOR A SMOKE-FREE SOCIETY 2000**

PROCEDURAL BACKGROUND

On October 31, 1995, the Minnesota Grocers Association ("MGA") filed a complaint with the Ethical Practices Board alleging that the Minnesota Coalition for a Smoke-Free Society 2000 ("Respondent") violated certain provisions of Minn. Stat. Ch. 10A, including section 10A.04, by failing to disclose all expenditures and receipts on a Lobbyist Disbursement Report.

The complaint alleged that the Respondent used ASSIST funds to conduct three training seminars to teach other ASSIST groups how to influence legislative action to increase cigarette excise tax and to support a retail tobacco licensing bill and that Lobbyist Disbursement Reports for the periods covering July 1, 1994, through June 30, 1995, may not disclose all funds spent attempting to influence legislative action, and they do not disclose funds from the Minnesota ASSIST grant program as an original source of funds.

On November 9, 1995, the MGA filed a supplement to its complaint alleging that the Respondent issued an "Action Alert" urging citizens to write legislators to support certain bills relating to tobacco issues. It further alleged that handouts were distributed to legislators urging support of the tobacco licensing bill and that the Respondent worked with the Attorney General's office to draft tobacco licensing statutes.

The evidence submitted by the MGA consists of copies of the Respondent's Minnesota ASSIST grant contract; the Respondent's Minnesota ASSIST Quarterly Financial Reports for the period covering October 1, 1994, through March 31, 1995; the Respondent's Minnesota ASSIST Quarterly Reports for the period covering October 1, 1994, through March 31, 1995; Minnesota Coalition for a Smoke-Free Society 2000 "Action Alert", a document directed to legislators and lobbyist Disbursement Reports for periods covering July 1, 1994, through June 30, 1995.

In response to the complaint, the Respondent submitted letters dated November 29, 1995, and January 9, 1996.

This matter was heard by the Board in executive session on January 26, 1996.

Based on all of the files, records and proceedings herein, and on the evidence provided by the MGA and by the Respondent, the Board makes the following:

FINDINGS OF FACT

1. Under the Minnesota ASSIST grant program Respondent Minnesota Coalition for a Smoke-Free Society 2000 entered into a contract with the Minnesota Department of Health for the period from October 1, 1994, through September 30, 1995.
2. All of the Respondent's activities, which are the subject of the complaint, were carried out by employees of the Respondent.

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3. Training sessions held involved advocacy for public health and education on how to conduct a media event. These sessions involved advocacy training rather than urging others to communicate with public officials for the purpose of influencing legislative action.
4. An "Action Alert" notice was prepared by Respondent's staff and sent to the Respondent's board of directors and member organizations. Total time for preparation was between one half hour and one hour, and total cost was approximately \$40.
5. The "Action Alert" urges others to communicate with public officials for the purpose of influencing legislative action. Costs of production and distribution of the document were not disclosed by Respondent to any of its lobbyists for reporting purposes and were not reported by a lobbyist.
6. A memorandum handed out to legislators was prepared and distributed by students who were not paid or reimbursed by the Respondent for this activity.
7. During the period of July 1, 1994, through September 30, 1995, Minnesota ASSIST grant proceeds spent attempting to influence legislative action relating to allegations raised in the complaint did not exceed \$500.00 in any calendar year.

Based on the above Findings of Fact, the Board makes the following:

CONCLUSIONS OF LAW

1. Only individuals who meet the definition of a lobbyist established in Minn. Stat. §10A.01, subd. 11, are required to register as lobbyist under Minn. Stat. §10A.03, and to file lobbyist disbursement reports under Minn. Stat. §10A.04. Because the Respondent is not an individual, and therefore cannot be a lobbyist, it is not subject to the §§10A.03 and 10A.04 registration and reporting requirements.
2. Drafting proposed legislation does not constitute communicating with or urging others to communicate with public officials for the purpose of influencing legislative action.
3. During the period of July 1, 1994, through June 30, 1995, Respondent spent \$40.00 to prepare and distribute an "Action Alert" which was for the purpose of attempting to influence legislative action by urging others to communicate with public officials. Disclosure of this amount to Respondent's lobbyists and reporting by the lobbyists during the appropriate reporting period was not accomplished.
4. Respondent is required to disclose to its lobbyists for reporting purposes, and the lobbyists are required to report, all of Respondent's disbursements made for the purpose of influencing legislative action pursuant to Minn. Stat. § 10A.03, subdivisions 3 and 4, including the disbursement described in Conclusion of Law number 2.
5. The Minnesota ASSIST grant program was not an original source of funds of over \$500.00 for which disclosure under Minn. Stat. §10A.04, subd. 4 (d), was required.
6. There is probable cause to believe that the Respondent violated Minn. Stat. § 10A.03, subd. 3, by failing to disclose all disbursements for the purpose of influencing legislative action. There is no probable cause to believe that any of Respondent's lobbyists or individual employees has violated Minnesota Statutes Chap. 10A.

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STATE OF MINNESOTA
ETHICAL PRACTICES BOARD

FINDINGS IN THE MATTER OF A COMPLAINT AGAINST
THE WRIGHT TO THE HEART OF HEALTH COALITION and COMMUNITY HEALTH FOUNDATION
OF WRIGHT COUNTY

PROCEDURAL BACKGROUND

On October 31, 1995, the Minnesota Grocers Association ("MGA") filed a complaint with the Ethical Practices Board alleging that the Wright to the Heart of Health Coalition and Community Health Foundation of Wright County ("Respondents") violated certain provisions of Minn. Stat. Ch. 10A, including sections 10A.03 and 10A.04, by failing to file a Lobbyist Registration and failing to file a Lobbyist Disbursement Report.

The complaint alleged that the Respondents attended training seminars and a rally at the capitol and attempted to influence legislative action to increase the cigarette excise tax and to support a retail tobacco licensing bill. The complaint further alleged that the Respondents urged coalition members to contact legislators to support a tobacco retail licensing bill.

The evidence submitted by the MGA consists of copies of part of the Respondent Community Health Foundation of Wright County's Minnesota ASSIST grant contract; its Minnesota ASSIST Quarterly Financial Report for the period covering January 1, 1995, through March 31, 1995, its Minnesota ASSIST Subcontractor Quarterly Report for the period covering January 1, 1995, through March 31, 1995; Minutes of Wright to the Heart of Health Coalition Meeting dated March 14, 1995; and an article from the March 2, 1995, *Buffalo Journal Press*.

In response to the complaint, the Respondents submitted a letter dated November 28, 1995.

This matter was heard by the Board in executive session on January 26, 1996.

Based on all of the files, records and proceedings herein, and on the evidence provided by the MGA and by the Respondent, the Board makes the following:

FINDINGS OF FACT

1. Respondent Wright to the Heart of Health Coalition ("Coalition") is an association which was organized by the Community Health Foundation of Wright County under a contract between the Community Health Foundation of Wright County and the Minnesota Department of Health for the period from October 1, 1994, through September 30, 1995.
2. All of the Respondents' activities which give rise to the complaint were carried out by Jon Young, Project Coordinator for the Respondent, Wright to the Heart of Health Coalition.
3. In carrying out his responsibilities, Mr. Young attended a rally.
4. In carrying out his responsibilities, Mr. Young, Attended a rally and spent less than one hour talking with legislators. Mr. Young spent no more than 15 minutes urging coalition members to contact legislators at a Wright to the Heart of Health Coalition meeting.

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5. During the period of October 1, 1994, through September 30, 1995, Mr. Young did not exceed five hours in any month and did not spend more than \$250 in any year attempting to influence legislative actions in his activities on behalf of the Respondent.
6. The Respondents did not spend at least \$50,000 in any calendar year on efforts to influence legislative action.

Based on the above Findings of Fact, the Board makes the following:

CONCLUSIONS OF LAW

1. Only individuals who meet the definition of a lobbyist established in Minn. Stat. §10A.01, subd. 11, are required to register as lobbyists under Minn. Stat. §10A.03 and to file lobbyist disbursement reports under Minn. Stat. §10A.04. Because the Respondent is not an individual, and therefore cannot be a lobbyist, it is not subject to the §§10A.03 and 10A.04 registration and reporting requirements.
2. Between October 1, 1994, and September 30, 1995, no employee of either Respondent met the requirements for definition as a lobbyist under Minn. Stat. §10A.01, subd. 11 (a).
3. No individuals are required to register as lobbyists or file lobbyist disclosure reports as a result of their participation in the alleged activities of either Respondent.
4. The Respondents are not required to file a lobbyist principal report as a result of the conduct alleged in the complaint.
5. There is no probable cause to believe that either Respondent, or their employees, violated the Ethics in Government Act, Minnesota Statutes Chapter 10A between October 1, 1994, and September 30, 1995.

Based on the above Findings of Fact and Conclusions of Law, the Board issues the following:

ORDER

The complaint of the Minnesota Grocers Association against Respondent Wright to the Hear of Health Coalition is dismissed in all respects. The investigation and all correspondence is entered into the public record in accordance with Minn. Stat. §10A.02, subd. 11.

Dated: 1/26/96



Douglas H. Sillers, chair
Minnesota Ethical Practices Board

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7. Minnesota Statutes Chap. 10A does not provide any civil fine or criminal penalty for the failure of an association represented by a lobbyist to disclose all of its lobbying disbursements for reporting purposes; however, the Ethical Practices Board may compel the disclosure by legal action.

Based on the above Findings of Fact and Conclusions of Law, the Board issues the following:

ORDER

The complaint of the Minnesota Grocers Association against Respondent is sustained with respect to the failure of Respondent to disclose for reporting purposes a disbursement of \$40.00 made for the purpose of influencing legislative action. Respondent is ordered to make disclosure of this disbursement to one of its lobbyists and that lobbyist is ordered to file an appropriate amended lobbyist disbursement report.

The investigation and all correspondence is entered into the public record in accordance with Minn. Stat. §10A.02, subd. 11.

Dated:

1/26/96

D. H. Sillers

Douglas H. Sillers, chair
Minnesota Ethical Practices Board

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