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FOR IMMEDIATE RELEASE

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**Peraica Found In Violation of Campaign Disclosure Act by State Board of Elections Hearing Officer**

*“Tony, who castigates people for lacking integrity, honesty, and transparency, has been caught red handed breaking the law. He is a fraud and should be exposed as such.”- Jeff Tobolski*

La Grange, IL – A recent reported issued by State Board of Elections Hearing Officer Mark Greben has found Tony Peraica guilty of violating section 9-25 of the Campaign Disclosure Act.

The issue arose in a case involving Mark Thompson, Republican primary challenger to Commissioner Liz Gorman. Peraica had claimed that he was not involved in the primary fight, and explicitly stated that he was not funding Thompson. However, when several checks were subpoenaed by the State Board of Elections it became clear that Peraica was funneling campaign cash illegally to a third party called GOP Media to pay for negative campaign literature for Thompson.

“Tony Peraica was paying the bills for the Thompson campaign while trying to skirt the law and deceive people,” said Tobolski. “Peraica is an attorney and has operated his campaign committee for over fifteen years. He knows the law, and the law is clear. Tony, who castigates people for lacking integrity, honesty, and transparency, has been caught red handed breaking the law. He is a fraud and should be exposed as such.”

The State Board of Elections had scheduled a hearing to a make a final decision on the matter for July 19<sup>th</sup>. However, Richard Means, the election attorney that represents both Peraica and Thompson pushed to have the hearing delayed, and it is now rescheduled for the September 20<sup>th</sup> board meeting at 10:30 am in Springfield.

Attached is a copy of Hearing Officer Mark Greben's report and a copy of the pertinent part the Campaign Disclosure Act.

Cook County District 16 includes the villages of Berwyn, Cicero, Schiller Park, Franklin Park, McCook, Hodgkins, Lyons, Summit, Willow Springs, Countryside, Western Springs, LaGrange, LaGrange Park, Northlake, Forest Park, Westchester, Stone Park, Berkley, Broadview, Hillside, Melrose Park, Brookfield, Riverside, North Riverside, and Stickney.

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STATE OF ILLINOIS

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Daniel W. White  
July 7, 2010

Elizabeth Gorman  
10834 Carolyn Court  
Orland Park, IL 60467

NOTICE TO PARTIES

Dear Political Committee Officer/Representative,

Please be advised that your pending Complaint for Violation of the Campaign Disclosure Act, case number 10 CD 003 will be presented to the Board at its July 2010 meeting. Attached for your review is a copy of the Hearing Examiner's recommendation in the matter. You are welcome to attend the meeting to answer any questions the Board may have, however your presence is not mandatory. **Please be aware that the enclosed recommendation is the Hearing Examiner's opinion *only*, and will not necessarily be the final decision by the Board.**

The meeting will begin at 10:30 AM on Monday, July 19, 2010 and will be held at 1020 S Spring Street, Springfield IL. You may also attend the meeting via Video Conference at our Chicago office, located in the James R Thompson Center, 100 W Randolph, Suite 14, 100.

Any Motions regarding this matter must be made in writing and received by the General Counsel no later than four (4) days before the date of the meeting. If you have any further questions please feel free to contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Rupert T. Borgsmiller".

Rupert T. Borgsmiller  
Assistant Executive Director

RTB: sk

**STATE OF ILLINOIS  
COUNTY OF COOK**

**BEFORE THE ILLINOIS STATE BOARD OF ELECTIONS  
OF THE STATE OF ILLINOIS**

Elizabeth Gorman  
**Complainant**

**Vs. CASE NO. 10 CD 003**

Mark Thompson Campaign Committee  
**Respondent**

**REPORT OF HEARING EXAMINER  
Public Hearing**

**PROCEDURAL HISTORY**

On January 22, 2010 the above referenced Complainant filed a form D-4, Complaint for violation of the Campaign Disclosure Act wherein it is specifically alleged that pursuant to 10 ILCS 5/9-10, 11, 12, and 13 as well as 5/9-9.5 of the Act, the Respondent failed to report certain campaign expenditures and contributions. It is also alleged that certain campaign literature failed to identify Respondent as having paid for it.

On February 3, 2010, a Closed Preliminary Hearing was convened. The Complainant was represented by her attorney, Burton Odelson. The Respondent was represented by attorney Stephen Boulton. After due consideration, the Hearing Examiner made a recommendation to the Board that the Complaint was filed on justifiable grounds, and therefore further recommended that a Public Hearing be conducted.

On March 8, 2009, the Board agreed with the Hearing Examiner and found that the Complaint was filed on justifiable grounds and therefore entered an Order that a Public Hearing be conducted.

**RESPONDENT'S MOTION**

Subsequent to the Board Order for a Public Hearing, and prior to the Public Hearing itself, on March 1, 2010, attorney Richard Means filed a Motion on behalf of the Respondent, wherein the Respondent acknowledged certain 5/9-9.5 violations for some of the above mentioned literature. However Respondent also argued that the D-2 filed for the period ending December 31, 2009 had a balance of \$11,036.50 and that at the Closed Hearing, the Complainant presented no evidence as to the cost of any of the election communication/literature in evidence, and that there was no evidence that suggested that none of the cost exceeded the amount of funds available to the Committee. Respondent also argues that there was no evidence that there were any contributions received by the Committee in excess of \$500 thereby requiring the Committee to file a Form A- 1 accounting for such contributions. No substantive action on the motion was taken.

**PUBLIC HEARING**

After receipt of Proof of Service upon the above mentioned parties, a Public Hearing was convened on April 28, 2010. Attorney Burton Odelson appeared on behalf of the Complainant and attorney Richard Means appeared on behalf of the Respondent. At the conclusion of this hearing and at the request of the Complainant, subpoenas were issued to US bank for the purpose of obtaining additional bank records relevant to the proceeding. The

matter was continued until June 9, 2010 whereupon further evidence was submitted, and closing arguments were presented by both parties.

Upon convening the April 28, 2010 hearing, the *Respondent acknowledged that there were 5/9-9.5 violations* for a failure to identify the Respondent/Committee as the source of payment for certain election communications identified as items 1A, B, and C respectively. In light of such acknowledgment, the Complainant rested as to this issue.

## **SUBSTANTIVE MATTERS AT ISSUE**

Deviating from conventional practice of allowing the Complainant and Respondent to present their cases sequentially, and for the purpose of administrative convenience, this Hearing Examiner allowed the Complainant to present certain items at issue, and then allowed the Respondent to the opportunity to respond as to the cost for each item.

### **Witness Tom Swiss**

The Complainant called Mr. Tom Swiss as a hostile witness to testify as to the value of all items and describe the method of payment. Mr. Swiss worked as a volunteer for the Thompson campaign, but he also owned a political consulting company known as GOP Media. The Thompson campaign, retained to GOP Media to produce material and perform other activities related to the Thompson campaign.

*It is very important to note, that a central theme to Mr. Swiss's testimony was that the Respondent's/Committee (Thompson campaign) "reimbursed" GOP Media for the expenses GOP incurred related to the Thompson campaign. These reimbursements came in the form of checks (contributions) that were payable to the Respondent/Thompson's Committee, and then tendered to GOP media for Mr. Swiss to deposit into the GOP Media account.*

### **Exhibit A-"Robocalls"**

During the months of December 2009 and January 2010, GOP Media incurred approximately \$3200 in costs for Robocalls that were used in Mark Thompson's campaign for Cook County Board. Swiss charged these calls to his credit card. Swiss claimed that these expenses were paid out of the \$11,200 dollar balance that was on hand at the close of the December 2009 filing period, however he offered no evidence to support said claim.

**Exhibit # 1.** Campaign literature that both parties stipulated were not related to the County Board campaign. Complainant withdrew this item. **Exhibit # 2.** This was a certain letter that went to "Hard Republicans" in January 2010. All costs (production, and mailing) associated with this document totaled \$375. Paid for by the GOP Media, but reimbursed by the Respondent/Thompson Committee in the manner described above. **Exhibit # 3.** Email designed by Swiss (value not identified) and emailed to approximately 700 people at a cost that was not elicited. **Exhibit # 4.** Election communication that witness asserted was not related to his work for the County Board campaign. Complainant withdrew this item. **Exhibit # 5.** This is the literature that was associated with the envelope known as exhibit 2 discussed above. Again, the total cost for both exhibits 2 and 5 were \$375. **Exhibit #6.** A billboard truck. Swiss contends that the truck was from "volunteers" and therefore the cost was "nothing". He later admitted it was "donated" by volunteers. He stated it was used during January of 2010 and that the owner was someone named Jim Brookman. He claimed that the estimated expenses (400-500 dollars) for the art work was paid for previously and was listed on a previous report. He also testified that gas was paid for by Jim Bookman himself, but he did not know how much the gas cost. No A-1 was filed in relationship to this truck. **Exhibit # 7.** More election communication with a production cost of \$668 and postage of \$1476. This was sent in January 2010 to about 7000 homes. Again, Swiss contends it was paid for by GOP Media, and the Respondent/Committee reimbursed GOP. **Exhibit # 8.** Another 7000 piece mailing in which GOP Media paid \$1411 in postage, and \$550.00 in production costs. There was approximately an additional \$79 cost associated with a Mark Thompson web site.

## **Witness Mark Thompson**

Complainant questioned witness Mark Thompson claimed he did not handle the finances, and he could not explain why his contributions went directly to GOP Media and were not deposited directly into his Committee. In fact, when asked (at least twice) about who paid for certain election communications, he claimed he did not know and that the campaign manager had the information. He furthermore admitted that his previous legal representation at the close Preliminary Hearing was handled by Steve Bolton, a "friend." He furthermore testified that he had "no knowledge of the details" regarding contributions that were originally made to his campaign, but then went to GOP Media as opposed to being deposited to his campaign committee account.

### **June 9, 2010 Hearing**

On June 9, 2010, this hearing resumed for the purpose of examining the evidence sent by US Bank, following a subpoena submitted to them commanding that they produce the fronts and backs of any check as well as deposit slips involving the GOP Media account from the period beginning January 1, 2010 through February 2, 2010.

Mr. Tom Swiss testified that he was in control of the financial affairs of the Respondent Committee which included accounting for both contributions and expenditures. He furthermore testified that there were certain contributions that were reported as contributions in the Semi Annual Report for the period ending December 2009, but were in fact not received until after January 1, 2010. Again he reiterated that several of said contributions were deposited into the GOP Media accounting(s) for the purpose of the Respondent/Mark Thompson Committee.

Of particular interest were two contributions. Regarding the first one, Swiss testified that one of the checks for the Mark Thompson committee was deposited into his personal account as opposed to the GOP Media account. This check was a contribution from Stephen Bolton, which was reported on the Respondent's December 2009 Semi Annual Report as a contribution for \$2000, even though \$1000 of this contribution was not received until after January 1, 2010. The second item was a *check dated January 20, 2010* from Citizens for Peraica payable to GOP Media in the amount of \$1000. Mr. Swiss testified that this check was given to GOP Media for the benefit of the Respondent/Committee as part of a \$2000 "Transfer In" that was *previously* reported as received by the Respondent/Committee on December 15, 2009.

### **ANALYSYS**

At the onset of this hearing, this Hearing Examiner was aware of the fact that at the close of the December 2009 reporting period the Respondent/Committee had approximately \$11,300 at its disposal to spend for costs (expenditures) incurred by the Thompson campaign for the office of Cook County Board of Commissioners. I was also cognizant of the fact that while there are strict reporting requirements for contributions received prior to an election, expenditures need not be accounted for until the Semi Annual Report is filed for the period in which those expenditures are incurred.

Based on the testimony given by both Tom Swift, a sometimes volunteer for the Respondent, and sometimes Independent Contractor for the Respondent in the name of GOP Media, the amount of money spent on the various forms of election communications spent in Mr. Thompson's campaign could have easily been paid for by the available funds as reported in the Respondent/Committee's December 2009 Semi Annual Report. The costs never approached the \$11,300 the Committee had available for such expenses. However, at hearing the Respondent stated that some of these cost were in fact paid for by some rather unconventional means. Contributions given to the Respondent were never deposited and accounted for by the Respondent but in fact routinely given to Mr. Swiss of GOP Media to pay for expenses that were related to the campaign. This included some of the expenses outlined above.

## IRREGULAR AND NON REPORTING

The reporting methods utilized by the Respondent/Committee were cavalier and informal. I find this particularly problematic in light of the fact that Mr. Thompson has had Committee on file with the SBE for approximately 15 years, and he should have therefore been familiar with basic reporting practices. In both the April 28, 2010 and June 9, 2010 hearing, Mr. Swift made it clear that as the person primarily responsible for the financial affairs of the Committee (albeit not the Treasurer), it was a routine practice for the Committee to receive contributions from third parties, only for the Committee to tender said checks to GOP Media to reimburse (pay) GOP Media for said expenses related to Mr. Thompson's campaign. This practice apparently began before the filing of the December 2009 Semi Annual Report. This is problematic for several reasons. *Sections 9-1.4 and 9-1.5* define what is both a contribution and expenditure respectively. The conduct as described above clearly falls outside of the statutory scheme for the reporting of contributions and expenditures. In fact, the type of conduct described above makes it difficult to determine whether both contributions and expenditures were properly reported for the reporting period ending December 2009 as well as during the A1 reporting period prior to the February 2010 Primary Election. *Section 9-11* specifically sets forth the manner in which contributions in aggregate amounts or value exceeding \$150 must be reported. The name, address, and dates of said contributions must be reported. Mr. Swift's practice of directing these contributions in excess of \$150 to his GOP Media account, and in one case his own personal bank account makes it impossible to determine if the Respondent/Committee's December 2009 Semi Annual Report is an accurate depiction of the financial affairs of this committee. It should be noted that while there is no evidence to suggest that the reports as filed are not accurate, the reporting practices engaged in by this committee were out of the ordinary and seemingly not consistent with the type of transparency that the above mentioned statutes seek to achieve. Also, Section 100.70 of the Board Rules, specifies that in instances where a particular expense incurred by a committee results in a particular payee being merely a conduit for the payment of a particular item or service, this cost is still to be considered an **"expense"** within the meaning of the act, *and not a reimbursement for that particular cost*. When the Respondent/Committee passed on checks payable to the Thompson campaign to pay GOP Media, the Respondent appears to have done two things. First, there was a failure to properly account for the contributions received by the Committee, and second it appears that the Committee was "reimbursing" GOP Media for expenses incurred on behalf of the Committee, and not recognizing them as an actual expense incurred by the Committee.

Consistent with the above statutory requirements, the Respondent's reporting of contributions on the December 2009 Semi Annual Report that were not actually received until January of 2010 were also violations. I know of no instance where a committee was allowed to report contributions as received merely based upon merely on a "promise" to submit a contribution at some future point in time. There is no statute or Board Rule that allows for said conduct. Therefore, in this instance the contributions by Mr. Peraica and Mr. Bolton that were reported on the December 2009 Semi Annual Report, but were in fact received either in whole or in part violated the above cited sections in that they were not actually received when the Respondent/Committee claimed to have received them.

Of particular note is the Respondent's reporting the receipt of a \$2000 "Transfer In"(Exhibit #1) Contribution on December 15, 2009 from Citizens for Peraica in which part of this contribution was received in the form of a \$1000 check payable to GOP Media (not the Respondent/Committee) in January 2010. (Exhibit # 2). Oddly enough, a review of the Semi Annual Report for Citizens for Peraica for the period ending December 2009, does not even show a December 15<sup>th</sup> Transfer Out to the Respondent's Committee. This is a major discrepancy that requires further explanation on behalf of the Respondent. However, this very act amounts to violations of the Campaign Disclosure Act. Section 9-25 of the Act specifically states that no person shall make a contribution in the name of another and no committee can knowingly accept a contribution made by one person in the name of another person. Clearly the \$1000 check from Citizens for Peraica to GOP Media was made for the benefit of Mark Thompson and therefore violates this statute. At the same time, because this check was given and accepted by the Respondent/Committee Mark Thompson in January of 2010, a Form A-1 should have been filed. Additionally, the same can be said of Stephen Bolton's \$1000 contribution in January. While it was reported as part of a \$2000 contribution on the Respondent's December 2009 Semi Annual Report (Exhibit # 3), Mr. Swiss

testified that \$1000 of this money was received in January of 2010 and as a result, a second Form A-1 should have been filed for this contribution.

It should also be noted that even the cost of the Billboard truck could not be ascertained. Mr. Swiss claimed it was donated by a friend (Jim Bookman). Surely the rental cost of such an item that was used during the month of January (time unknown) conceivably had a value in excess of \$500. Again, no attempt was made to account for the value for the time it was used, or the fuel consumed. This was clearly an In-Kind contribution of some sort.

Lastly, the Respondent stipulated to the fact that there was a 9-9.5 violation for a failure to provide the source of payment for certain election communications. This being the case, and now being aware of said violation and promising not to violate this section in the future, it is my opinion that no further action be taken in this regards.

### RECCOMENDATIONS

In light of the above this Hearing Examiner recommends the following:

1. That the Board find that the Respondent failed to file two form A-1s in a timely manner because Respondent failed to report two contributions in excess of \$500 that were received by the Respondent/Committee in January 2010. (Peraica and Bolton contributions)
2. That the Board find that the Respondent violated section 9-25 of the Campaign Disclosure Act when the Respondent accepted a contribution in the name of another. (Peraica contribution to GOP Media on behalf of Thompson)
3. That based on the irregular practices of accounting for both contributions and expenditures as described above, the Board order that appropriate Campaign Disclosure staff to audit the committee to insure that all contributions and expenses have been properly accounted for.
4. That the Board order the Respondent to only report contributions in instances when money is actually received and services have actually been rendered and not report contributions of any form where the Respondent Committee in fact has not received them.
5. That the Board issue any other order that they deem appropriate to insure proper compliance with all of the provisions of the Campaign Disclosure Act and that a failure to abide by said order(s) will result in a possible fine for each violation.



Mark D Greben, Hearing Examiner

Dated: July 7, 2010

10 ILCS 5/9-25 Formerly cited as IL ST CH 46 ¶ 9-25

West's Smith-Hurd Illinois Compiled Statutes Annotated  
[Currentness](#)

Chapter 10. Elections

[Act 5](#). Election Code ([Refs & Annos](#))

[Article 9](#). Disclosure and Regulation of Campaign  
Contributions and Expenditures ([Refs & Annos](#))

## **5/9-25. Anonymous contributions or in name of another prohibited**

§ 9-25. No person shall make an anonymous contribution or a contribution in the name of another person, and no person shall knowingly accept any anonymous contribution or contribution made by one person in the name of another person. Anonymous contributions shall escheat to the State of Illinois. Any political committee that receives such a contribution shall forward it immediately to the State Treasurer.

CREDIT(S)

Laws 1943, vol. 2, p. 1, § 9-25, added by P.A. 78-1183, § 1.

**Formerly** [Ill.Rev.Stat.1991, ch. 46, ¶ 9-25](#).

HISTORICAL AND STATUTORY NOTES

Effective date of P.A. 78-1183, see note preceding [10 ILCS 5/9-1](#).

Section 4 of P.A. 78-1183 related to effect of the partial invalidity of the Act.

## LAW REVIEW AND JOURNAL COMMENTARIES

Joint campaigning by state and federal candidates. Jeffrey P. Chicoine and Tom Lindley, 1984, 72 Ill.B.J. 354.

## LIBRARY REFERENCES

[Elections 317.2.](#)

Westlaw Topic No. [144.](#)

[C.J.S. Elections §§ 562, 564, 566, 571 to 572.](#)

## NOTES OF DECISIONS

Anonymous contributions [2](#)

Construction and application [1](#)

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Fraud [4](#)

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### [1.](#) Construction and application

This paragraph does not provide statutory remedy to Board of Elections for contributions made by one person in name of another person. [People ex rel. Illinois State Bd. of Elections v. de Grazia, App. 1 Dist.1982, 61 Ill.Dec. 390, 105 Ill.App.3d 509, 434 N.E.2d 543.](#)

### [2.](#) Anonymous contributions

Contributions, having been identified as from a specified donor, could not be "anonymous" within meaning of this

paragraph. [People ex rel. Illinois State Bd. of Elections v. de Grazia, App. 1 Dist.1982, 61 Ill.Dec. 390, 105 Ill.App.3d 509, 434 N.E.2d 543. Elections 317.2](#)

Terms "anonymous" contributions and contributions "in the name of another person," under this paragraph are not synonymous. [People ex rel. Illinois State Bd. of Elections v. de Grazia, App. 1 Dist.1982, 61 Ill.Dec. 390, 105 Ill.App.3d 509, 434 N.E.2d 543.](#)

### 3. Escheat

As used in this paragraph escheat is penal in nature. [People ex rel. Illinois State Bd. of Elections v. de Grazia, App. 1 Dist.1982, 61 Ill.Dec. 390, 105 Ill.App.3d 509, 434 N.E.2d 543.](#)

"Escheat," as used in this paragraph means reversion or forfeiture of property to state upon happening of some event. [People ex rel. Illinois State Bd. of Elections v. de Grazia, App. 1 Dist.1982, 61 Ill.Dec. 390, 105 Ill.App.3d 509, 434 N.E.2d 543.](#)

### 4. Fraud

Where directors of client association knew about "\$300 fund," wherein \$300 was collected from currency exchange orders at start of each state legislative session for purpose of establishing a fund from which to reimburse members for political contribution, and did not disclose that fund to law firm which represented client association in preparing reports to be filed with the Illinois State Board of Elections, where they knew that disclosure had not been made in reports, and where there was no showing of negligence, only reasonable

inference that could be drawn was that association intentionally failed to report its secret fund used to reimburse members for political contributions and, thus, there was prima facie showing of fraud. [In re Special September 1978 Grand Jury \(II\), C.A.7 \(Ill.\)1980, 640 F.2d 49. Elections 317.4](#)

Even though neither name of association nor any reference to currency exchange industry appeared in ad hoc group reports filed with Illinois State Board of Elections, where reports did in fact describe workings of association, and where Illinois law was uninterpreted by courts at time of filing and Attorney General's opinion stating that since action of commissioners in question was beyond their power it would be more appropriate if they filed in their own names as a private interest group rather than in name of park district was arguably relevant, trial judge did not abuse discretion in failing to find prima facie fraud because reports were not filed in name of association. [In re Special September 1978 Grand Jury \(II\), C.A.7 \(Ill.\)1980, 640 F.2d 49. Elections 317.4](#)

## 5. Subsidiary corporations

A subsidiary corporation does not make a prohibited contribution in the name of another in violation of this section by making a political contribution from its funds at the direction of its parent corporation. 1998 Ill. Atty. Gen. Op. 004.

10 I.L.C.S. 5/9-25, IL ST CH 10 § 5/9-25

Current through P.A. 96-955 of the 2010 Reg. Sess.

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