

# Trimble & Associates, Ltd.

Attorneys at Law

11700 Wayzata Boulevard  
Minneapolis, Minnesota 55305  
Telephone 952-797-7477 Facsimile 952-797-5858

Offices also in  
St. Paul, Minnesota and  
Auckland, New Zealand

*Tony P. Trimble*  
*Matthew W. Haapoja*  
952-797-7477

February 20, 2003

**VIA FEDERAL EXPRESS**

Federal Election Commission  
OFFICE OF GENERAL COUNSEL  
999 E Street N.W.  
Washington, DC 20463

Re: Complaint Request for Investigation

MUR # 5349

Dear Sir/Madam:

The undersigned serves as general counsel to the Republican Party of Minnesota ("RPM"), a political party (multi-candidate) committee registered with the Federal Election Commission ("Commission"). This correspondence ("Request") is submitted to the Commission to request investigation of potential violations of the Federal Elections Campaign Act (the "Act"), 2 U.S.C. §441, *et. seq.*, pursuant to the enclosed Complaint.

Please contact either of the undersigned with any questions in this matter. Thank you.

Very truly yours,



Tony P. Trimble  
Matthew W. Haapoja  
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cc: Corey Miltimore, Executive Director, RPM

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
2003 FEB 21 10 21 AM

**BEFORE THE FEDERAL ELECTION COMMISSION**

Republican Party of Minnesota,

MUR No. \_\_\_\_\_

v.

Minnesota DFL House Caucus and  
Minnesota Democratic Farmer Labor Party

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FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
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1. The Republican Party of Minnesota ("RPM"), through its undersigned general counsel, hereby brings this complaint pursuant to 2 U.S.C. § 437g(a)(1). The RPM is a multi-candidate political party committee registered with the Federal Election Commission (herein the "Commission" or "FEC"), located at 480 Cedar Street, Suite 560, St. Paul, MN 55010.

2. This Complaint is brought against the Minnesota DFL House Caucus (the "DFL House Caucus"), Paul Rogosheske, Treasurer, with FEC Identification Number C00361139 and FEC-registered address at 352 Wacouta Street, St. Paul, MN 55101, and the Democratic-Farmer-Labor Party (the "DFL Party"), Paul Schulte, Treasurer, with FEC Identification Number C00025254 and FEC-registered address at 255 East Plato Boulevard, St. Paul, MN 55107.

**FACTUAL ALLEGATIONS**

3. The DFL House Caucus is the campaign arm of the Minnesota House Democratic Caucus in the Minnesota House of Representatives. On August 24, 2000, the DFL House Caucus filed a Statement of Organization with the FEC identifying itself as a "subordinate" (or affiliate) committee of the Minnesota DFL Party.

4. The DFL House Caucus timely filed its required FEC Reports until February 5, 2002, after which all reporting to the FEC has ceased. Attached hereto at Exhibit A are five (5) written notices from the FEC to the DFL House Caucus in 2003 (dated March 3, May 6, August

2, November 4 and December 25) in which the FEC notified the DFL House Caucus that it had failed to file its required Periodic Reports of Receipts and Disbursements.

5. Under FEC affiliation rules, by filing as an "affiliate", the DFL House Caucus as a political party committee is entitled to transfer unlimited amounts to the DFL State Party for federal election activity (and *vice versa*)<sup>1</sup>.

6. During calendar year 2002, the DFL State Party reported on its required FEC Periodic Reports of Receipts and Disbursements that the DFL House Caucus had transferred \$231,638.32 to the DFL State Party for federal election purposes<sup>2</sup>. These transfers were made on the following dates in the following amounts (attached as Exhibit B hereto are true and correct copies of the relevant pages from the DFL State Party's FEC Reports reporting these transfers):

February 2:	\$20,000
April 5:	\$38,000
May 13:	\$12,500
July 15:	\$25,000
August 21:	\$20,000
Sept. 20:	\$26,138.32
October 7:	\$10,000
October 22:	\$30,000
October 24:	\$15,000
November 3:	\$11,000
<u>Nov. 19:</u>	<u>\$9,000</u>

TOTAL: \$231,638.32

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<sup>1</sup>As affiliated committees, however, the DFL Caucus Federal Committee's and DFL State Party's contributions (and expenditures) must be aggregated as if to/from a single committee under FEC Regulations (as well as aggregated with all other DFL State Party subordinates). Additionally, contributions for federal purposes must be limited to \$5,000 per donor. Thus, it is illegal for a donor (individual or PAC other than party committee) to contribute the maximum of \$5,000 to the DFL Caucus Federal Committee and then turn around to contribute \$5,000 to the DFL State Party federal account

<sup>2</sup>The DFL House Caucus also contributed \$230,808.75 to the DFL State Party for state activities, as reported on both the DFL House Caucus and DFL State Party reports to the Minnesota Campaign Finance and Public Disclosure Board ("CFB"), for a total amount contributed by the DFL House Caucus in combined federal and state contributions of \$462,447.07. This total amount was reported on the DFL House Caucus CFB report with no indication of the federal / state split of \$230,808.75 for state activities and \$231,638.32 for federal activities as reported by the DFL State Party on its FEC and CFB reports.

7. To date, because the DFL House Caucus has failed and refused to file its FEC Reports despite repeated FEC demands<sup>3</sup>, the public cannot determine the identity of donors to DFL House Caucus (and the ultimate source of the \$231,638.32 funneled to the DFL State Party through the DFL House Caucus).

8. Because the identity of the DFL House Caucus's donors is unknown, it is also impossible to identify whether contributions to the DFL House Caucus were legal. Without the required public disclosure it cannot be determined whether the DFL House Caucus received illegal contributions such as: (i) contributions in excess of \$5,000; (ii) contributions that caused a contributor to violate the combined aggregate \$5,000 limit to the DFL House Caucus and the DFL State Party as affiliated political party committees; or (iii) contributions from corporations, labor unions or foreign nationals.

9. Moreover, because the DFL House Caucus has failed and refused to file its required FEC Reports of Receipts and Disbursements, it is impossible to identify whether the DFL House Caucus made any contributions or disbursements which violated contribution limits under 2 U.S.C. § 441a(a)(1)(A).

### COUNT I

10. The DFL House Caucus has violated 2 U.S.C. §§ 437g(b) and 438(a)(7) for failure to file required Periodic Reports of Receipts and Disbursements. This violation is extremely significant, given that the violations occurred in an election year and involved hundreds of thousands of dollars in contributions (at least \$231,638.32 in transfers reported by the DFL State Party as having been received from the DFL House Caucus).

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<sup>3</sup>The DFL Caucus Federal Committee has received four (4) notices from the FEC of their failure to file the required reports.

## COUNT II

11. The DFL House Caucus is a political committee only by virtue of Minnesota's Ethics in Government Act, Minnesota Statutes Chapter 10A, as a political committee organized by a branch of the Minnesota Legislature, namely, the Minnesota House DFL Caucus.

12. 2 U.S.C. § 431(16) and 11 C.F.R. § 100.15 define political party as "an association, committee or organization which nominates a candidate for election to any Federal office whose name appears on the election ballot as the candidate of such association, committee or organization." As an entity created by Minnesota statute related to state campaigns, the DFL House Caucus does not nominate any candidate to Federal office, and no candidate appears on a ballot for election to Federal office that receives the nomination of the House DFL Caucus. Accordingly, the DFL House Caucus does not qualify as a "political party" under 2 U.S.C. § 431(16) and 11 C.F.R. § 100.15.

13. 11 C.F.R. § 100.14(b) defines "subordinate committee of a State committee" as "any organization which is responsible for the day-to-day operation of the political party at the level of city, county, neighborhood, ward, district, precinct or any other subdivision of a State under the control or direction of the State committee." On information and belief, the DFL House Caucus is not under the control or direction of the DFL State Party. On information and belief, the DFL House Caucus is not created by the Constitution or Bylaws of the DFL State Party, and the DFL State Party does not otherwise exercise direct or indirect control over the DFL House Caucus in any manner. As the Statements of Organization of each entity indicate, the DFL State Party and DFL House Caucus maintain separate treasurers (Paul Schulte and Paul Rogosheske, respectively) and separate addresses. Accordingly, the DFL House Caucus does not qualify as a "subordinate committee" under 11 C.F.R. § 100.14(b).

14. Because the DFL House Caucus does not qualify as either a "state political party" or a "subordinate" or "affiliate" committee of the DFL State Party, the DFL House Caucus, as an FEC-registered committee, can only qualify as a nonconnected political committee under 11 C.F.R. § 100.5, and, as a nonconnected political committee, may not contribute more than \$5,000 per calendar year to the DFL State Party.

15. Because the DFL House Caucus does not qualify as either a "state political party" or a "subordinate" or "affiliate" of the DFL State Party, the transfers in calendar year 2002 in the aggregate amount of \$231,638.32 were excessive contributions, exceeding the statutorily-permitted contribution limit by \$226,638.32.

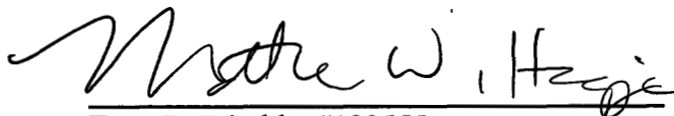
### COUNT III

16. The DFL House Caucus's willful failure and refusal to file its required FEC Reports raises a question as to the ultimate identity of the DFL House Caucus's donors (and source of the \$231,638.32 funneled to the DFL State Party through the DFL House Caucus). Without disclosure of the contributors, it is impossible to determine whether the DFL House Caucus (or the DFL State Party) accepted excessive or otherwise illegal contributions. For example, did donors to the DFL House Caucus also make contributions to the DFL State Party for federal election purposes?

WHEREFORE, the RPM, through its undersigned legal counsel, request that the Federal Election Commission conduct an investigation into these allegations, declare that Respondents have violated the Federal Elections Campaign Act of 1971 as amended, 2 U.S.C. § 431 *et seq.* and impose sanctions, fines and penalties appropriate to these violations and take all further action deemed necessary and proper in this matter.

Dated: February 19, 2003

**TRIMBLE & ASSOCIATES, LTD.**



Tony P. Trimble, #122555  
Matthew W. Haapoja, #268033  
11700 Wayzata Boulevard  
Minneapolis, MN 55305  
952-797-7477

24-04-09-3241

By:   
Corey J. Miltimore, Executive Director

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of February, 2003, by Corey Miltimore, the Executive Director of the Republican Party of Minnesota.

