

**STATE OF MINNESOTA
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD**

**PRIMA FACIE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF KEITH DOWNEY, CHAIR OF THE REPUBLICAN PARTY OF MINNESOTA, REGARDING THE MINNESOTA DFL STATE CENTRAL COMMITTEE, THE DFL HOUSE CAUCUS, THE DFL SENATE CAUCUS, MARK DAYTON FOR A BETTER MINNESOTA, AND MULTIPLE DFL ENDORSED CANDIDATES FOR HOUSE AND SENATE:

On May 9, 2016, the Minnesota Campaign Finance and Public Disclosure Board received a complaint submitted by Keith Downey, Chair of the Republican Party of Minnesota, regarding the Minnesota DFL State Central Committee, the DFL House and Senate Caucuses, Mark Dayton for a Better Minnesota, and multiple DFL endorsed candidates for House and Senate. Some of the unnamed DFL endorsed candidates were identifiable from the complaint or its attachments while others were not.

The complaint alleges that respondents violated Minnesota Statutes § 10A.27, Subd. 2, a section limiting the amount of contributions that a principal campaign committee may accept from political party units and dissolving principal campaign committees, and § 10A.20, Subd. 3, a section detailing the information required to be contained in reports filed with the Board.

The complaint alleges that the respondents violated the aforementioned statutes because the Minnesota DFL State Central Committee (the DFL) hired and paid for certain individuals' employment to work for the benefit of fewer than three candidates. The complaint argues that because the individuals worked for the benefit of fewer than three candidates, the payments made to the individuals do not qualify as multicandidate political party unit expenditures pursuant to Minn. Stat. § 10A.275, Subd. 1(5), and, thus, constitute in-kind contributions from the DFL to the various candidates' committees.

The complaint further alleges that the reports filed with the Board by the DFL and the candidates' committees do not disclose the alleged in-kind contributions and, in some instances, these in-kind contributions caused certain committees to exceed the limit on contributions from political party units and dissolving principal campaign committees.

Determination:

Chapter 10A defines a contribution as "money, a negotiable instrument, or a donation in kind that is given to a political committee, political fund, principal campaign committee, or party unit." Minn. Stat. § 10A.01, Subd. 11. A donation in kind is defined as "anything of value that is given, other than money or negotiable instruments." Minn. Stat. § 10A.01, Subd. 13.

The Board has consistently recognized a donation of paid staff time as a thing of value. The provision of paid staff time from one individual or entity to another is therefore a contribution unless it is otherwise exempted from that definition.

Minnesota Statutes section 10A.275, Subd. 1(5), provides the following:

Multicandidate Political Party Unit Expenditures

Subdivision 1. Exceptions. Notwithstanding other provisions of this chapter, the following expenditures by a party unit, or two or more party units acting together, with at least one party unit being either: the state committee or the party organization within a congressional district, county, or legislative district, are not considered contributions to or expenditures on behalf of a candidate for the purposes of section 10A.25 or 10A.27 and must not be allocated to candidates under section 10A.20, subdivision 3, paragraph (g):

...

(5) expenditures for party committee staff services that benefit three or more candidates.

In order to qualify for the multicandidate political party unit expenditure exception cited above, a party unit must establish that the provided staff services benefit three or more candidates. The provision of staff services that benefit only one or two candidates is instead considered a donation in kind to the candidate(s) that counts against the political party unit contribution limit.

The complainant alleges that certain individuals hired by the DFL did not work for the benefit of three or more candidates as required by the multicandidate political party unit expenditure exception. The complainant also provides certain publically-available information that purportedly corroborates this allegation. A review of campaign finance reports filed with the Board indicates that the DFL reported making payroll expenditures to the identified staff members. No corresponding in-kind contributions are reported as having been made by the DFL to the subject candidate committees.

Although the complaint does not identify each and every candidate committee that it claims may have failed to report a donation in kind and/or may have potentially exceeded its applicable political party unit contribution limit, the Board does not consider this omission fatal to establishing a prima facie violation. The committees that are individually identified by the complaint or its attachments are Mark Dayton for a Better Minnesota, McNamar (Jay) for House, Citizens for John Persell, Roger Erickson Campaign Committee, and Eken (Kent) for State Senate District 4.

Because the DFL House and Senate Caucuses are not implicated in the complaint, the Chair concludes that the complaint submitted in this matter is insufficient to state a prima facie violation of Chapter 10A with respect to the DFL House Caucus and the DFL Senate Caucus. The complaint with respect to the caucuses is dismissed without prejudice.

Based on the above analysis, the Chair concludes that the complaint submitted in this matter is sufficient to state a prima facie violation of Chapter 10A with respect to the Minnesota DFL State Central Committee, Mark Dayton for a Better Minnesota, McNamar (Jay) for House, Citizens for John Persell, Roger Erickson Campaign Committee, Eken (Kent) for State Senate District 4, and the DFL endorsed candidates for House that were allegedly benefitted by the staff services of Jamael Lundy, Chris Vaaler, and Megan Nelson.

Pursuant to Minnesota Statutes Sec. 10A.022, Subd. 3(1), this prima facie determination is made by a single Board member and not by any vote of the entire Board. This prima facie determination does not mean that the Board has commenced, or will commence, an investigation or has made any determination of a violation by any of the individuals or entities named in the complaint.

Pursuant to Minnesota Statutes Sec. 10A.022, Subd. 3(2), within 45 days of the date of this determination the Board will make findings and conclusions as to whether probable cause exists to believe the violations alleged in the complaint warrant a formal investigation. The complainant and the respondents named in this prima facie determination will be given an opportunity to be heard by the Board prior to any decision on probable cause.

Until the Board makes a public finding or enters into a conciliation agreement, this matter is subject to the confidentiality requirements of Minnesota Statutes Sec. 10A.022, Subd. 5.

/s/ Christian Sande
Christian A. Sande, Chair
Campaign Finance and Public Disclosure Board

Dated: 5/23/2016