

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

**PRIMA FACIE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF JAMES C. PARSONS REGARDING THE THEIS (TAMA) FOR SENATE COMMITTEE

On November 4, 2022, the Campaign Finance and Public Disclosure Board received a complaint submitted by James Parsons regarding the Theis (Tama) for Senate committee, Board registration number 18895. Theis (Tama) for Senate is the principal campaign committee of Representative Tama Theis, a candidate for Minnesota Senate District 14.

The complaint alleges that the Theis committee purchased radio advertisements from Townsquare Media that aired during the period from September 12, 2022, through the date the complaint was filed. The complaint asserts that expenditures totaling \$7,006 related to those advertisements should have been, but were not, included within the Theis committee's 2022 pre-general report of receipts and expenditures. The complaint alleges that the Theis committee thereby violated the reporting requirements within Minnesota Statutes section 10A.20, subdivision 3.

The complaint contains hyperlinks to the FCC public inspection files of five radio stations, including KZRV-FM (96.7 The River),¹ WJON-AM (AM 1240),² KMXX-FM (Mix 94.9),³ WWJO-FM (98.1 Minnesota's New Country),⁴ and KXSS-AM (AM 1390 Granite City Sports).⁵ The FCC public inspection files pertain to radio advertisements scheduled to run from September 12 through November 5 or 7, 2022. The FCC public inspection files include five invoices totaling \$2,603 for the amounts billed for advertisements that aired through September 30, 2022. Each invoice reflects that the amount billed was paid on or before October 25, 2022. The FCC public inspection files also include five contracts indicating that the Theis committee would be billed a total of \$3,564 for radio advertisements that would air throughout the month of October.⁶ Each invoice and contract refers to Townsquare Media, townsquaremedia.com, or TSQ Media of St. Cloud. The complaint alleges, and Board records reflect, that the Theis committee's 2022

¹ publicfiles.fcc.gov/fm-profile/KZRV/political-files/2022/state/theis-tama/d8d266da-8670-8462-8c25-af083dc36ed6

² publicfiles.fcc.gov/am-profile/WJON/political-files/2022/state/theis-tama/d390da1f-01bd-661a-be45-ee613ea02061

³ publicfiles.fcc.gov/fm-profile/KMXX/political-files/2022/state/theis-tama/7226f4c1-8fae-cdff-db87-c465012f1d56

⁴ publicfiles.fcc.gov/fm-profile/WWJO/political-files/2022/state/theis-tama/2c283e17-93c8-c413-df6b-03064f910760

⁵ publicfiles.fcc.gov/am-profile/KXSS/political-files/2022/state/theis-tama/87013e08-1fca-d9c2-ef12-feed2ac1e53a

⁶ As noted in the complaint, the FCC public inspection files list the advertiser as "Tama Theis for MN House," which Board records reflect is the principal campaign committee that Representative Theis used for previous campaigns for state representative from 2013 onward.

pre-general report, as amended, does not include expenditures or advances of credit paid or payable to Townsquare Media.

The 2022 pre-general report covers the period from January 1 through October 24, 2022. Board records reflect that the Theis committee's original 2022 pre-general report was filed on the due date, October 31, and an amended report was filed on November 2, 2022. Each report was filed by Representative Theis, who is the committee's treasurer. The complaint alleges, and Board records reflect, that the amended pre-general report filed on November 2 includes \$46,856.28 in campaign expenditures that were not included within the original report that was filed two days earlier. The amended report includes campaign expenditures totaling \$60,228.75, meaning that 77.8% of the campaign expenditures included within the amended report were not included in the original report, despite those reports covering the same time period. The amended report also includes \$1,372 in receipts that were not included within the original report. The complaint states that the scale of the November 2 amendment "makes a mockery of the reporting process. If there is no consequence for an 'amendment' of this scale, there would appear to be no incentive to file timely reports in general."

Determination

Minnesota Statutes section 10A.20, subdivision 3, paragraph (h), requires that a principal campaign committee's periodic campaign reports disclose each vendor to which expenditures have been made in excess of \$200, along with the date, amount, and purpose of each expenditure and an explanation of how the expenditure was used. A report must include the total sum of expenditures made during the reporting period. Minn. Stat. § 10A.20, subd. 3 (i). A report must also include "The amount and nature of an advance of credit incurred by" a committee. Minn. Stat. § 10A.20, subd. 3 (j). An advance of credit is "any money owed for goods provided or services rendered." Minn. Stat. § 10A.01, subd. 3.

Within campaign reports filed with the Board, monetary campaign expenditures that have been paid and advances of credit incurred for campaign expenditures are included within the same schedule but are distinguished by being labeled as paid or unpaid. Advances of credit are more commonly referred to as unpaid bills.

The complaint alleges and includes evidence that the Theis committee did not include expenditures or advances of credit paid or payable to Townsquare Media for radio advertisements that aired during the period from September 12 through October 24, 2022, within its original or amended 2022 pre-general report.⁷ The chair therefore concludes that the complaint states a prima facie violation of Minnesota Statutes section 10A.20, subdivision 3.

The complaint also asserts that there should be a consequence for initially failing to disclose a substantial portion of a committee's expenditures or contributions. "Material changes in

⁷ Expenditures made or advances of credit incurred after October 24, 2022, should not be included within the pre-general report.

information previously submitted and corrections to a report or statement must be reported in writing to the board within ten days following the date of the event prompting the change or the date upon which the person filing became aware of the inaccuracy.” Minn. Stat. § 10A.025, subd. 4. Each campaign report “must be signed and certified as true by the individual required to file the report,” an “individual shall not sign and certify to be true a report or statement knowing it contains false information or knowing it omits required information,” and an individual who certifies a report knowing that it is false or omits required information is subject to a civil penalty. Minn. Stat. § 10A.025, subd. 2. An unintentional mistake regarding the contents of a report does not subject a treasurer or candidate to a civil penalty, unless they fail to file an amended report within the timeline required by Minnesota Statutes section 10A.025, subdivision 4.

The complaint does not allege that Representative Theis certified a report knowing that it was false or omitted required information, or failed to correct omissions within her committee’s original pre-general report within 10 days of becoming aware of the omission. The chair therefore concludes that the complaint does not state a prima facie violation of Minnesota Statutes section 10A.025, subdivision 2 or 4.

Pursuant to Minnesota Statutes section 10A.022, subdivision 3, 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 section 10A.022, subdivision 3, within 45 days of the date of this determination, the Board will make findings and conclusions as to whether probable cause exists to believe that the violation of Minnesota Statutes section 10A.20, subdivision 3, alleged in the complaint warrants a formal investigation. The complainant and the respondent 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 section 10A.022, subdivision 5.



Faris Rashid, Chair
Campaign Finance and Public Disclosure Board

Date: November 21, 2022